

SEXUAL ASSAULT IN THE MILITARY PART IV: ARE WE MAKING PROGRESS?

HEARING

BEFORE THE
SUBCOMMITTEE ON NATIONAL SECURITY
AND FOREIGN AFFAIRS
OF THE
COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED ELEVENTH CONGRESS

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SEXUAL ASSAULT IN THE MILITARY PART IV: ARE WE MAKING PROGRESS?

WEDNESDAY, FEBRUARY 24, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN
AFFAIRS,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 3 p.m., in room 2247, Rayburn House Office Building, Hon. John F. Tierney (chairman of the subcommittee) presiding.

Present: Representatives Tierney, Flake, Turner, and Luetkemeyer.

Also present: Representatives Harman and Speier.

Staff present: Andy Wright, staff director; Elliot Gillerman, clerk; Talia Dubovi, counsel; Steven Gale, fellow; Aaron Blacksberg and Bronwen De Sena, interns; Tom Alexander, minority senior counsel; Christopher Bright, minority professional staff member.

Mr. TIERNEY. Good afternoon, everybody. I want to thank you all for being here. A quorum is present, so the Subcommittee on National Security and Foreign Affairs' hearing entitled, "Sexual Assault in the Military Part IV: Are We Making Progress," will come to order.

I ask unanimous consent that only the chairman, the ranking member and Mr. Turner of the subcommittee be allowed to make opening statements. Without objection, that is so ordered.

Also, I ask unanimous consent that various Members, Representatives Harmon, Slaughter, Davis, Chu and Speier, should they be able on their schedules to come and participate, they be allowed to participate, but in accordance with committee rules, they will only be allowed to question the witnesses after all official members of the subcommittee have had their turn. Without objection, so ordered.

I ask unanimous consent that the hearing record be kept open for 5 business days, so that all members of the subcommittee and invited participants be allowed to submit a written statement for the record. Without objection, so ordered. And I also ask unanimous consent that Ms. Slaughter be allowed to submit for the record that statement now, where we have it on record. Without objection, so ordered.

So with that business out of the way, again, I welcome everybody to the subcommittee. As you know, it provides continued oversight of the Department of Defense's response to sexual assault in the military. I think it is an important topic and I regret if I sound like

I am rushing through this, it is only because I understand we are going to have votes in a few minutes, a 15-minute vote and two 5-minute votes, which may take about a half hour out of us. So we will get as far along as we can, then we will break for a half hour, with our apologies. We will come back as soon as we can and then proceed.

The reason we have everybody on one panel is that we tried to keep it at two panels, not three to get done this afternoon, because the main committee went over with Mr. Toyoda and company. So we will try to be considerate of the fact that you all have schedules that are busy as well. We want to take advantage of your time here.

It is clear that in any context, sexual assault destroys lives. But sexual assault in the military has additional facets that make it particularly of concern to this subcommittee. First, it is the unquestioned duty of this body and the U.S. Government as a whole to protect our military service members. And as I have said many times, the last thing that our men and women in uniform should fear when they put their lives on the line to defend the country is being attacked by one of their own.

Second, sexual assaults in the military threaten military readiness in an acute way. When bonds of trust are broken, when unit cohesion is threatened, when our soldiers are forced to cope with the heavy emotional and psychological burden of a sexual attack, our armed forces are weakened. It is not only individual service members who are hurt by these crimes, but our military as a whole.

This is our fourth hearing on this subject over the last 2 years. We don't really want to make this a career, but we do think it is an important area and that there is work to be done, and that there was some lag between statutory work that was done in the completion of setting up some of the entities that were going to do oversight. The focus on oversight has been on the Department of Defense's Sexual Assault Response Prevention Office [SAPRO]. It was created to be the single point of accountability and oversight for sexual assault policy within the Department. So we have been carefully monitoring its progress, or in the beginning, the lack thereof. But I am happy to say that it is moving now.

In our first hearing in July 2008, we heard from two victims of sexual assault. Ms. Ingrid Torres, a manager for the American Red Cross who was raped while working in Kunsan Air Base in South Korea told us that the process of investigating and prosecuting the crime was just as traumatizing as the crime itself. Ms. Mary Lauterbach, whose daughter, Lance Corporal Maria Lauterbach, was murdered at Camp Lejeune after reporting a rape, testified about the warning signs indicating Maria needed protection after reporting the crime that had been missed by the Marines, and how her daughter regretted reporting the rape.

I note that today we will be hearing testimony from Ms. Lauterbach's attorney, who is going to provide us with further insight into the experience he has had with working with the military in the aftermath of the Lance Corporal's death.

The traumatic experiences of victims and their first-hand experiences with the military's sexual assault response programs provide

invaluable insight and oversight into the challenges facing SAPRO, and they highlight the areas that the office needs to better address. During our earlier hearings, we also heard from the Government Accountability Office on its findings and recommendations for SAPRO to improve the training, response, accountability and oversight of the programs. GAO reported that despite some DOD progress on sexual assault response, significant problems remain that could discourage or prevent some service members from using the program when needed.

Today we welcome GAO back to give us the details of their newest report that is being released today. It follows up on the original recommendations. Today we will also hear from a distinguished panel of other experts who will answer the fundamental question of this hearing: are we making the progress necessary to effectively address the problem of sexual assault in the military?

Along with the GAO, we welcome representatives of the Defense Task Force on Sexual Assault in the Military Services. This congressionally mandated Task Force just completed a 16-month review of all matters related to sexual assault in the military. The Task Force report contains extensive recommendations for the Secretary of Defense, the Service Secretaries, SAPRO, Congress and others. Representatives of the Department of Defense will be on hand to report on related efforts over the last several years, as well as plans for continued efforts to eliminate sexual assaults from our military. Our society must assure that we do a better job of preventing these terrible crimes, providing care for victims and assuring that perpetrators are brought to justice. The military context, where we consciously create a separate society designed to ensure our national defense only magnifies our obligation to prevent sexual assault. We hope to hear today that the Department of Defense has made significant progress in correcting the problems that we have heard about the last 2 years.

It should be crystal clear to the Department by now that Congress is conducting oversight and watching this. We are going to continue to monitor the progress that is being made, although I hope, as I said, not to make this a career. We are hoping at that point we will be able to turn this over with the guidance of all the entities that are set up for this, be able to continue on, have the proper oversight, and maybe just by reports back in we may obviate the need for any more hearings on this.

We all share responsibility to our men and women in uniform to do everything that is necessary to protect them from these crimes. So we continue that work today, we will continue it as necessary for the future. Again, I want to thank all of you for being here to offer us assistance on that.

At this point in time, I would defer to Mr. Flake for his opening comments.

Mr. FLAKE. I thank the chairman. Because of votes, I won't take long. I will submit this statement for the record, but just welcome you all here. I joined the subcommittee after the first series of hearings were held, so this is my first exposure to it. I look forward to learning from all of you on both panels.

I thank the chairman.

Mr. TIERNEY. I don't see Mr. Turner here just yet, so we will wait for his statement when he arrives.

This is a longstanding practice of this committee, to swear in witnesses, so I ask that all of the people who will be testifying to stand please and raise your hands.

[Witnesses sworn.]

Mr. TIERNEY. Thank you very much. Let the record please reflect that all of the witnesses answered in the affirmative.

I will just identify the members of the panel before we get started, so we will get that done, at least, before the interruption here.

Ms. Brenda Farrell is the Director of Defense Capabilities and Management in the Government Accountability Office. In that capacity, she is responsible for military and civilian personnel issues, including related medical readiness issues. She previously served as an Acting Director for the GAO's Strategic Issues team and holds a B.A. from the University of Louisville and an M.S. from the Industrial College of the Armed Forces.

Mr. Randolph Hite is the Director of Information Technology Architecture and Systems Issues in the Government Accountability Office. In that capacity, he is responsible for auditing GAO's IT work at the Departments of Defense, State, Homeland Security and Justice. Mr. Hite has also examined the work that the Department of Defense has done on the congressionally mandated Defense Sexual Assault database. He holds a B.B.A. from James Madison University.

My understanding is that Ms. Farrell will do the testimony for both, but both are available for questioning on that.

Dr. Louis Iasiello currently serves as co-chairman of the Defense Task Force on Sexual Assault in the Military Services. He is a retired Rear Admiral in the U.S. Navy, having served for 25 years in a number of distinguished positions. From 2003 until his retirement in 2006, Dr. Iasiello served as the Chief of Naval Chaplains. He holds a Ph.D. from Salve Regina University.

Brigadier General Sharon Dunbar serves in the U.S. Air Force and also is a member of the Defense Task Force on Sexual Assault in the Military Services. She currently serves as the Director of Force Management Policy, and is the Deputy Chief of Staff of Manpower, Personnel and Services at the U.S. Air Force headquarters. General Dunbar previously served as a member of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies. She holds a B.S. from the U.S. Air Force Academy. My understanding is that you will be splitting your testimony half and half, is that correct?

Admiral IASIELLO. Right.

Mr. TIERNEY. Dr. Kaye Whitley currently serves as the Director of Sexual Assault Prevention and Response Office [SAPRO]. In that capacity, she develops policy and programs to improve sexual assault prevention efforts, enhance victim support and increase offender accountability. Dr. Whitley previously served as the Senior Director of Communication in DOD's Defense Prisoner of War and Missing Personnel Office. She holds a Ph.D. from the George Washington University and, Doctor, this is a return visit for you. Thank you for joining us.

Ms. Gail McGinn is the Deputy Under Secretary of Defense for Plans, a position that she has held since 2002. In that capacity, she is responsible for developing integrated evaluation processes to measure the success of personnel programs. Ms. McGinn previously served as the Principal Deputy Assistant Secretary of Defense for Force Management Policy and as the Principal Director for Personnel Support, Families and Education. Ms. McGinn holds a B.A. from William Smith College, and a Master's in Education from Boston University.

We again thank all of you for joining us here this morning. Having sworn in everybody, we will start our testimony and go as far as we can. Usually, when the sounds goes off, as most of you know, we still have about 15 minutes before we have to vote. So we will let it go a little bit over on that and then break.

Ms. Farrell, if you would be kind enough?

STATEMENTS OF BRENDA S. FARRELL, DIRECTOR, DEFENSE CAPACILITIES AND MANAGEMENT, GOVERNMENT ACCOUNTABILITY OFFICE, ACCOMPANIED BY RANDOLPH HITE, DIRECTOR, INFORMATION TECHNOLOGY AND ARCHITECTURE SYSTEMS, GOVERNMENT ACCOUNTABILITY OFFICE; LOUIS IASIELLO, CO-CHAIRMAN, DEFENSE TASK FORCE ON SEXUAL ASSAULT IN THE MILITARY SERVICES, ACCOMPANIED BY BRIGADIER GENERAL SHARON K.G. DUNBAR, USAF, MEMBER, DEFENSE TASK FORCE ON SEXUAL ASSAULT IN THE MILITARY SERVICES; KAYE WHITLEY, DIRECTOR, SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE, OFFICE OF THE SECRETARY OF DEFENSE; AND GAIL MCGINN, DEPUTY UNDER SECRETARY—PLANS, DEPARTMENT OF DEFENSE

STATEMENT OF BRENDA S. FARRELL

Ms. FARRELL. Mr. Chairman, members of the subcommittee, thank you for the opportunity for Mr. Hite and me to be here today to discuss our work to evaluate DOD and the Coast Guard's oversight and implementation of their respective sexual assault prevention and response programs. Our written statement summarizes the findings of a report that we are issuing concurrently with today's hearing. It builds upon our previous work related to sexual assault in the military services.

This is the third time you have asked GAO to testify on this important subject. And your ongoing attention to this subject has significantly contributed to the broader congressional efforts to raise the awareness of and accountability for sexual assault in the military services.

Our main message today is that DOD and the Coast guard have taken a number of positive steps to increase program awareness and to improve their prevention and response to occurrences of sexual assault. But additional actions are needed to strengthen the programs.

Sexual assault is a crime with far-reaching negative impacts on the military services, in that it undermines core values, degrades mission readiness and esprit de corps, subverts strategic goodwill and raises financial costs. Since we reported on the implications in

2008, DOD reported nearly 3,000 alleged sexual assault cases. It remains impossible to accurately analyze trends or draw conclusions from this data, because DOD and the Coast Guard have not yet standardized their reporting requirements.

Our written statement is divided into three parts. The first addresses the steps that DOD has taken to implement our August 2008 recommendations regarding the oversight and implementation of its programs. To its credit, DOD has implemented four of the nine recommendations in that report. For example, DOD evaluated Department program guidance for joint and deployed environments. And it evaluated factors that may hinder access to health care following a sexual assault incident.

But DOD's actions to address the other five recommendations reflect less progress. For example, a key recommendation was that DOD develop an oversight framework, which they have. However, we found that the draft framework lacks key elements needed for effective strategic planning and successful implementation, such as criteria for measuring progress to facilitate program evaluation and identify areas that may need improvement.

The second part of our statement addresses the steps DOD has taken and still needs to take to establish a centralized sexual assault incident database. DOD did not meet the legislative requirement to establish the database by last month. It is unclear when the database will be established, because DOD does not yet have a reliable schedule to guide its efforts.

Also, system acquisition best practices associated with successfully acquiring and deploying information technology systems, such as economically justifying the proposed system solution, and effectively developing and managing requirements, have largely not been performed.

Third, the last part of our statement addresses the steps the Coast Guard has taken to implement our August 2008 recommendations for further developing its sexual assault prevention and response program. The Coast Guard has partially implemented one of two GAO recommendations. It has not implemented the other.

The Coast Guard began assessing its program staff's workload in June 2009, which represents progress for staffing key installation level positions. But it has not addressed our recommendations to develop an oversight framework.

In summary, Mr. Chairman, while the progress DOD and the Coast Guard have made is noteworthy, their efforts have not fully established sound management frameworks that include a long-term perspective and clear lines of accountability, all of which are needed to withstand the administrative, fiscal and political pressures that confront Federal programs on a daily basis.

Further, successful program implementation will require personal involvement of top leadership in order to maintain the long-term focus on and accountability for program objectives. Without such support, DOD and the Coast Guard programs will not be able to maximize the benefit of their respective initiatives, and they may not be able to effect the change in military culture that is needed to help ensure that their programs are institutionalized.

Mr. Chairman, that concludes our opening. Mr. Hite and I will be happy to take questions when you are read.
[The prepared statement of Ms. Farrell follows:]

United States Government Accountability Office

GAO

Testimony

Before the Subcommittee on National
Security and Foreign Affairs, Committee
on Oversight and Government Reform,
House of Representatives

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MILITARY PERSONNEL

DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Need to Be Further Strengthened

Statement of Brenda S. Farrell, Director
Defense Capabilities and Management

and

Randolph C. Hite, Director
Information Technology Architecture and Systems



GAO-10-405T

Chairman Tierney and Members of the Subcommittee:

Thank you for the opportunity to be here today to discuss our efforts to evaluate the Department of Defense's (DOD) and the U.S. Coast Guard's oversight and implementation of their respective sexual assault prevention and response programs. Our statement today summarizes the findings of a report that we are issuing concurrently with today's hearing, and it builds upon our previous work related to sexual assault in the military services.¹ Our main message today is that DOD and the Coast Guard have taken a number of positive steps to increase program awareness and to improve their prevention and response to occurrences of sexual assault, but additional actions are needed to strengthen their respective programs. As we have previously reported, sexual assault is a crime with a far-reaching negative impact on the military services in that it undermines core values, degrades mission readiness and esprit de corps, subverts strategic goodwill, and raises financial costs.² Since we reported on these implications in 2008, incidents of sexual assault have continued to occur; in fiscal year 2008, DOD reported nearly 3,000 alleged sexual assault cases, and the Coast Guard reported about 80.³ However, it remains impossible to accurately analyze trends or draw conclusions from these data because DOD and the Coast Guard have not yet standardized their respective reporting requirements.⁴

Mr. Chairman, your ongoing attention to this important issue has led to a number of improvements to both DOD's and the Coast Guard's sexual assault prevention and response programs, and has significantly contributed to the broader congressional effort to raise the awareness of and accountability for sexual assault in the military services. Our August 2008 report examined sexual assault in the military and Coast Guard services,⁵ and highlighted that DOD's and the Coast Guard's program

¹GAO, *Military Personnel: Additional Actions Are Needed to Strengthen DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs*, GAO-10-215, (Washington, D.C.: Feb. 3, 2010).

²GAO, *Military Personnel: DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs Face Implementation and Oversight Challenges*, GAO-08-924 (Washington, D.C.: Aug. 29, 2008).

³In fiscal year 2008, DOD reported 2,908 alleged incidents of sexual assault involving military servicemembers, and the Coast Guard reported 84.

⁴GAO-08-924.

⁵GAO-08-924.

implementation was hindered by several issues, including the lack of an oversight framework, limited support from commanders, and training that was not consistently effective. Accordingly, we made a number of recommendations—nine to DOD, and two to the Coast Guard—for improving program implementation. We recommended that DOD

- review and evaluate the department's policies for the prevention of and response to sexual assault to ensure that adequate guidance is provided to effectively implement the program in deployed environments and joint environments,
- evaluate the military services' processes for staffing and designating key installation-level program positions, such as coordinators, at installations in the United States and overseas, to ensure that these individuals have the ability and resources to fully carry out their responsibilities,
- review and evaluate sexual assault prevention and response training to ensure that the military services are meeting training requirements and to enhance the effectiveness of the training,
- systematically evaluate and develop an action plan to address any factors that may prevent or discourage servicemembers from accessing health services following a sexual assault,
- direct the military service secretaries to emphasize to all levels of command their responsibility for supporting the program, and review the extent to which commanders support the program and resources are available to raise servicemembers' awareness of sexual assault matters,
- require the Sexual Assault Prevention and Response Office to develop an oversight framework to guide continued program implementation and evaluate program effectiveness,
- improve the usefulness of the department's annual report as an oversight tool both internally and for congressional decision makers by establishing baseline data to permit analysis of data over time and to distinguish cases in which (1) evidence was insufficient to substantiate an alleged assault, (2) a victim recanted, or (3) the allegations of sexual assault were unfounded,
- direct the military service secretaries to provide installation-level incident data to the Sexual Assault Prevention and Response Office annually or as requested, to facilitate analysis of sexual assault-related data and better target resources over time, and
- direct the Defense Task Force on Sexual Assault in the Military Services to begin its examination immediately, now that all members of the task force have been appointed, and to develop a detailed plan with milestones to guide its work.

We recommended that the Coast Guard

- evaluate its processes for staffing key installation-level program positions, such as the coordinators, to ensure that these individuals have the ability and resources to fully carry out their responsibilities, and
- develop an oversight framework to guide continued program implementation and evaluate program effectiveness. At a minimum, such a framework should contain long-term goals, objectives, and milestones; performance goals; strategies to be used to accomplish goals; and criteria for measuring progress.

We also testified twice before your Subcommittee in 2008 on matters related to sexual assault in the military services; first, in July 2008,⁶ to present our preliminary observations on DOD's and the Coast Guard's sexual assault prevention and response programs, and second, in September 2008, to present the findings and recommendations of our August 2008 report.⁷ In November 2008, you asked us to continue to monitor DOD's and the Coast Guard's progress in addressing those recommendations. Our statement today specifically addresses the extent to which

- DOD has taken steps to implement our recommendations from 2008 and has further developed its programs to prevent and respond to sexual assault;
- DOD has taken steps to address a congressional requirement to establish a centralized, case-level sexual assault incident database; and
- the Coast Guard has taken steps to implement our recommendations from 2008 and has further developed its programs to prevent and respond to sexual assault.

To conduct our work, we reviewed current DOD and Coast Guard policies and programs and compared them with our findings and recommendations from 2008. We also interviewed DOD and Coast Guard officials to supplement our analyses of program modifications. In addition, we

⁶GAO, *Military Personnel: Preliminary Observations on DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs*, GAO-08-1013T (Washington, D.C.: July 31, 2008).

⁷GAO, *Military Personnel: Actions Needed to Strengthen Implementation and Oversight of DOD's and the Coast Guard's Sexual Assault Prevention and Response Programs*, GAO-08-1146T (Washington, D.C.: Sept. 10, 2008).

assessed the extent to which DOD has addressed a congressional requirement to establish a centralized, case-level sexual assault database by reviewing applicable legislation and DOD documentation, and compared it with DOD, federal, and industry guidance on key system acquisition best practices. We also interviewed DOD officials to obtain information on the status of the department's efforts to establish the database.

For our report based on this performance audit, we conducted our work from February 2009 to February 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

DOD's Efforts to Address Our Recommendations from 2008 Reflect Varying Levels of Progress

DOD has taken steps to implement our August 2008 recommendations to improve its sexual assault prevention and response program; however, its efforts reflect various levels of progress, and opportunities exist for further program improvements. To its credit, DOD has implemented four of the nine recommendations in our August 2008 report. First, the Office of the Secretary of Defense (OSD) established a working group to address our recommendation to evaluate the adequacy of DOD policies for implementing its sexual assault prevention and response program in joint and deployed environments. Based on the working group's findings, OSD suggested revisions to joint policy, which a Joint Staff official told us they are using to modify related publications. Second, the military service secretaries have each taken a variety of steps to address our recommendation to emphasize responsibility for program support at all levels of command. The most notable examples of this support include the U.S. Navy's recent establishment of a sexual assault prevention and response office that will report directly to the Secretary of the Navy, and the Army's incorporation of a sexual assault program awareness assessment into promotional boards for its noncommissioned officers. Third, OSD chartered the Health Affairs Sexual Assault Task Force to address our recommendation to evaluate and address factors that may prevent or discourage servicemembers from seeking health services. Specifically, the task force evaluated and subsequently issued a number of recommendations that are intended to improve access to health care following a sexual assault, including chartering a Sexual Assault Health Care Integrated Policy Team to review department-level policies regarding

clinical practice guidelines, standards of care, personnel and staffing, training requirements and responsibilities, continuity of care, and in-theater equipment and supplies. Fourth, in August 2008, the Defense Task Force on Sexual Assault in the Military Services began its examination of matters related to sexual assault, as we recommended, and on December 1, 2009 the task force released a report with its findings and recommendations.

However, DOD's actions toward implementing the other five recommendations from 2008 reflect less progress. For example, although OSD has drafted an oversight framework, that framework does not contain all the elements necessary for effective strategic planning and program implementation, such as criteria for measuring progress to facilitate program evaluation and to identify areas needing improvement. However, according to OSD officials, they plan to develop these within the next 2 years. Further, the draft oversight framework does not include information on how OSD plans to use or report the results of its performance assessments, does not identify how program resources correlate to its achievement of program objectives, and does not correlate with the program's two strategic plans. Therefore, to improve oversight of the department's sexual assault prevention and response programs, in our February 2010 report we recommend that OSD strengthen its oversight framework by identifying how the results of performance assessments will be used to guide the development of future program initiatives, identifying how program resources correlate to its achievement of strategic program objectives, and correlating the oversight framework with the program's two strategic plans. In written comments on our draft report, DOD concurred and noted that it has already taken steps toward implementing these recommendations. For example, DOD stated that it currently has efforts underway to establish criteria for measuring its progress and expects to have a plan in early 2010 for tracking the department's progress toward performance objectives. DOD also noted that it plans to align its budget categories with specific performance objectives, starting with the 2012 budget cycle. Further, DOD noted that the process it plans to use to track its progress toward performance objectives will also allow the department to synchronize the objectives, timelines, and strategies of its two strategic plans. We commend DOD for taking immediate steps in response to our recommendations, and encourage the department to continue taking positive actions toward fully implementing them.

Further, while OSD has introduced some changes in DOD's annual report to Congress, it has not completed the process of developing a standardized set of sexual assault data elements and definitions. OSD officials noted

that the standardization of data definitions is something they expect to accomplish in the near term, while standardizing data elements will take longer as it is a task that will be completed in conjunction with their development of a centralized sexual assault database. However, we note that in the meantime, information in DOD's annual report still cannot be compared across the military services, and it may not be effectively characterizing incidents of sexual assault in the military services. Thus, to enhance visibility over the incidence of sexual assaults involving DOD servicemembers, and to improve the department's sexual assault prevention and response programs and the pending implementation of the Defense Sexual Assault Incident Database, in our February 2010 report we recommend that DOD standardize the type, amount, and format of the data in the military services' report submissions. In written comments on our draft report, DOD stated that it is working to achieve complete data uniformity among the military services, but that this will ultimately be accomplished once the Defense Sexual Assault Incident Database—which I will discuss next—has been established. While we recognize the complexity of this task, we continue to assert that the full establishment and implementation of standardized data elements and definitions will facilitate a more comprehensive understanding of DOD's sexual assault prevention and response programs.

We also found that OSD cannot assess training programs as we recommended, because OSD's strategic plans and draft oversight framework do not contain measures against which to benchmark performance, and DOD has not implemented our recommendation to evaluate processes for staffing key installation-level positions because, according to OSD officials, they were advised that the Defense Task Force on Sexual Assault in the Military Services would be making related recommendations. Finally, OSD officials stated that they will not address our recommendation to collect installation-level data—despite its availability and the military services' willingness to provide them—until they have implemented the Defense Sexual Assault Incident Database to maintain these data. We did not make any new recommendations to DOD in our February 2010 report regarding these findings however, we continue to assert that until these recommendations are fully implemented, OSD cannot be sure that the programs are improving the department's prevention of and response to sexual assault incidents.

**DOD Has Yet to
Establish A
Centralized Sexual
Assault Incident
Database**

DOD has taken preliminary steps to establish the centralized, case-level Defense Sexual Assault Incident Database that Congress directed it to implement in the National Defense Authorization Act for Fiscal Year 2009, but it did not meet the statutorily mandated January 2010 deadline for implementing the database. Instead, only general milestones for acquiring the database have been set, and DOD cannot currently commit to when the system will be implemented because it does not have a reliable acquisition and implementation schedule. Further, a range of key information technology management practices that are essential to successfully acquiring and implementing a system remain to be accomplished. Our research and evaluations of information technology programs across the federal government have shown that adherence to such practices—including assessing a program's overlap with related programs and using reliable estimates of life cycle costs and benefits to justify investment in the system—is essential to delivering promised system capabilities and benefits on time and within budget. However, more remains to be accomplished before these disciplines will be effectively implemented. For example, while DOD developed a business case for the database in June 2009 that includes a cost estimate of \$12.6 million, the cost estimate does not include all costs over the system's life cycle, has not been adjusted to account for program risks, and does not include a comparison of alternatives on the basis of net present value. To increase the chances of the database being successfully acquired and implemented, in our February 2010 report we recommend that DOD adhere to key system acquisition management processes and controls, including, but not limited to developing a reliable integrated master schedule, assessing the program's overlap with related programs, and justifying the investment based on reliable estimates of life cycle costs and benefits. In written comments on our draft report, DOD agreed with these recommendations but noted that doing so depends in part on hiring a system development contractor. In this regard, DOD expects to release the Request for Proposals for a system developer soon, and award a contract sometime between April and June 2010.

**Coast Guard Has
Partially Implemented
One of Our Two
Recommendations
from 2008**

While the Coast Guard has partially implemented one of our recommendations to further develop its sexual assault prevention and response program, it has not implemented the other. In August 2008, we reported that the Coast Guard's sexual assault prevention and response program was hindered by several issues, and we made two recommendations to strengthen its program's implementation.⁸ In response to these recommendations, the Coast Guard has established a headquarters-level program manager position to oversee its sexual assault prevention and response program, and it has initiated an assessment of the current workload requirements and resource allocations for its Sexual Assault Response Coordinators. In written comments on our draft report, the Coast Guard stated that it had recently completed its assessment of the workload requirements and resource allocations for its Sexual Assault Response Coordinators, and upon release of the final report the Coast Guard plans to review and analyze the recommendations and as appropriate, incorporate additional resource requirements into its annual budget process.

Further, the Coast Guard lacks a systematic process to collect, document, and maintain its sexual assault data and related program information, and it lacks quality control procedures to ensure that program data being collected are reliable. For example, Coast Guard officials noted that in fiscal year 2008, the Coast Guard Investigative Service documented 78 reports of alleged sexual assault, while Coast Guard Headquarters, using its hard copy log of reports from its coordinators, had documented only 30. Therefore, in our February 2010 report we recommend that the Coast Guard improve the oversight and accountability of its sexual assault prevention and response program by establishing a systematic process for collecting, documenting, and maintaining sexual assault incidence data, and by establishing quality control processes to ensure that program information collected is reliable. In written comments on our draft report, the Coast Guard noted that it is currently developing a prototype of an electronic database to track sexual assault reports and that it expects to complete the database in 2010.

Additionally, while the Coast Guard's instruction requires that all Coast Guard Sexual Assault Response Coordinators be trained to perform relevant duties, officials stated that they have not developed a curriculum or implemented training for the Coast Guard's 16 Sexual Assault Response

⁸GAO-08-924.

Coordinators, as they had elected alternatively to develop a training curriculum for other program personnel. Thus, to ensure that the Coast Guard can provide proper advice to its personnel, in our February 2010 report we recommend that it establish and administer a curriculum for all key program personnel. In written comments on our draft report, the Coast Guard noted that it has scheduled training in May 2010 for all of its personnel performing Sexual Assault Response Coordinator duties. We commend the Coast Guard for the steps it has taken and its plans for further developing its sexual assault prevention and response program, and we encourage the service to continue taking positive actions toward fully implementing our recommendations.

In summary, we want to reiterate our recognition that both DOD and the Coast Guard have taken a number of positive steps toward addressing our recommendations from 2008 to further strengthen their respective sexual assault prevention and response programs. Additionally, each service has proactively developed and implemented a variety of initiatives—beyond what we recommended—to increase program awareness and to improve prevention of and response to occurrences of sexual assault. While such progress is noteworthy, DOD's and the Coast Guard's efforts have not fully established sound management frameworks that include a long-term perspective and clear lines of accountability—all of which are needed to withstand the administrative, fiscal, and political pressures that confront federal programs on a daily basis. Further, successful program implementation will require the personal involvement of top DOD and Coast Guard leadership in order to maintain the long-term focus on and accountability for program objectives. Without such support, DOD's and the Coast Guard's programs will not be able to maximize the benefits of their respective prevention and response initiatives, and they may not be able to effect the change in military culture that is needed to ensure that their programs are institutionalized.

Chairman Tierney and Members of the Subcommittee, this concludes our prepared statement. We would be pleased to answer any questions you may have at this time.

Contacts and Acknowledgments

If you or your staff have any questions on matters discussed in this statement, please contact Brenda Farrell at (202) 512-3604 or farrellb@gao.gov or Randolph Hite at (202) 512-3439 or hiter@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors to this statement include Marilyn K. Wasleski, Assistant Director; Neelaxi Lakhmani, Assistant Director; Divya Bali; Stacy Bennett; K. Nicole Harms; Jim Houtz; Ron La Due Lake; Kim Mayo; Adam Vodraska; and Cheryl A. Weissman.

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Mr. TIERNEY. Again, thank you very much. We couldn't have done the work that was done without GAO's good assistance and help on this, and we appreciate it.

Doctor, we are calling you, I assume, because that trumps Admiral? Dr. Iasiello, please.

STATEMENT OF LOUIS IASIELLO AND SHARON DUNBAR

Admiral IASIELLO. Chairman Tierney, Ranking Member Flake, distinguished members of the subcommittee, thank you for this opportunity to present the work of the Defense Task Force on Sexual Assault in Military Services.

As co-chairs, we are honored to be here to discuss the recommendations and findings of the Task Force and the staff. Given the fact that our formal statements have been forwarded to you, we will keep these opening comments short and brief.

As regards our authority, Congress directed the Task Force in its 2005 Defense Authorization Act, and it was established by the Secretary of Defense in August 2008.

The Task Force employed an extensive methodology, employing both quantitative and qualitative measures. Over a period of 15 months, we visited 60 installations, CONUS, OCONUS and in the AOR, interviewing 3,500 individuals, 61 victims, senior military and civilian Department of Defense leadership, sexual assault response coordinators and their supervisors, victim advocates, first responders, medical personnel, legal personnel, pastoral care providers, the chaplains, military police, and the Department of Defense's criminal investigative services. We reviewed hundreds of their criminal investigative reports, as well as all prior reports on sexual assault leading up to our work. At the completion of our work, we submitted the report to the Secretary of Defense on the 1st of December 2009.

The Task Force focused its work in three distinct yet interrelated areas, that of victim response, prevention and training, and accountability and strategic oversight. First off, the report recognizes the progress made by the Department of Defense in victim response, since it inaugurated its Sexual Assault Prevention and Response Program in 2005. We believe that the recommendations contained in the Task Force report will significantly improve programs in this critical area.

Next in the area of strategic direction, the Task Force is recommending that the Deputy Secretary of Defense take responsibility for SAPRO for a period of at least 1 year, and until the Secretary of Defense apprises Congress that the SAPR office is meeting its established goals. We recommend that the SAPR program be given a more permanent complexion in the Department of Defense. The Department of Defense needs to communicate the message that the SAPR program is here to stay, and illustrate that resolve through designated funding for SAPR funding in its DOD budget process.

The Task Force recommends that the organizational design, personnel and mission of the DOD SAPR office be revised to strategically lead the Department of Defense in this critical area. We recommend the establishment of a uniform SAPR terminology and core structure to be implemented across service lines. The Task

Force recommends the professionalization of victim advocates to ensure for qualified personnel with national certification. And we recommend that sexual assault and response coordinators are Department of Defense civilians and/or uniform personnel in the Department of Defense.

The Task Force recommends the development of program standards and subsequent metrics which will enable the Department of Defense to more accurately measure the health of the SAPR programs. And finally, in this area of strategic direction, the Task Force is strongly recommending funding for SAPR research in collaboration with civilian experts throughout our great country, such as those found in the world of academia and our advocacy groups which work so hard in this area, and other Federal agencies.

Now I would like to turn the mic over to General Dunbar.

General DUNBAR. Mr. Chairman and other distinguished members of the subcommittee, as we have submitted our statement for record, I will continue to provide brief remarks. Over the course of our 15 months, there were several trends that emerged. The first is that prevention of sexual assault needs to be the No. 1 priority. Second, response to victims has demonstrably improved, but more improvements need to be made in that area. There needs to be much greater consistency among the services, given deployed operations, joint basing and other joint operations, as well as greater consistency among the active component and the Reserve and Guard components.

Given the nature of time that we had to conduct our review, we were not able to conduct extensive analysis of what is existing in the Guard and Reserve components at the unit level or the State level. So we recommend that the Secretary of Defense undertake additional review in that area.

Then as the GAO had indicated, on the data aspect, we really do believe that there needs to be greater consistency, reliability of the data in order for us to be able to do trend analysis and be able to continue to improve the program.

Finally, we believe that the SAPRO office, while it was initially established with response to victims in mind, needs to be extensively expanded in order to address more effectively prevention as well as the data accountability issues.

On the prevention and training area, as I mentioned, we believe that prevention is the No. 1 priority, because that is absolutely key in order to be able to prevent sexual assault from occurring in the first place. We are advocating that there needs to be a much greater comprehensive strategy. I think the DOD has done a great job in terms of establishing bystander intervention training. But we would state that the training, and essentially the strategy, needs to be much more than bystander intervention, to include community awareness, to include the partnership, building partnership capacity with our communities, with academia and addressing the issue.

In the training area, we are advocating much more than the rote training that takes place. We would propose that there needs to be training along a continuum that addresses not just the first responders, but those in leadership, from the commanders as well as

the senior enlisted and our civilians, that training occur over the course of an individual's career.

Also, the training needs to be geared toward just generating greater awareness and appreciation for the incidence level of sexual assault, debunking many of the myths that continue to prevail, not just within the military but within society as well, addressing risk factors, victim and perpetrator factors, as well as risk mitigation strategies.

We would also advocate specialized and recurring training for those that are extensively involved in providing the response to our victims. And then in the victim response area, a couple of key areas that I would address would be that we need to try to provide greater care for the victims. Many of them, as you had indicated, Mr. Chairman, have expressed dismay over the treatment that they receive. I think that much can be done in terms of providing greater response to them, from professionalizing the victim advocates that we have to providing them with legal assistance up front, so they know they can have a conversation that will provide them with confidentiality, to also being able to confide in a peer or trusted agent as opposed to feeling that their third party then will end up being subpoenaed in order to testify against them.

Then likewise, we would advocate that the individuals who, if they decide that they want to opt out of an investigation, that the victims be allowed to do so. And last, on the accountability, which GAO has addressed fairly substantially so I won't get into that, we do believe that there needs to be much greater accountability on the data and that we couldn't emphasize enough the importance of having the data system up and running.

From the best practices, just to highlight what we believe is important, the common theme there is engaged leadership, increased awareness and the candid discussion that needs to take place at all levels within the DOD. Much of that is taking from with the senior leadership down to the unit level. But again, much more needs to be done.

With that, sir, I conclude. Thank you.

[The prepared statement of Admiral Iasiello and General Dunbar follows:]

**STATEMENT BY
DR. LOUIS V. IASIELLO, PhD.
AND
BRIGADIER GENERAL SHARON K.G. DUNBAR, USAF
CO-CHAIRS, DEFENSE TASK FORCE
ON SEXUAL ASSAULT IN THE MILITARY SERVICES**

**BEFORE THE
HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

**ON THE
REPORT OF THE DEFENSE TASK FORCE ON SEXUAL ASSAULT IN THE
MILITARY SERVICES**

FEBRUARY 24, 2010

**NOT FOR PUBLICATION UNTIL RELEASED BY THE COMMITTEE ON
OVERSIGHT AND GOVERNMENT REFORM**

Chairman Tierney, Ranking Member Flake, and distinguished members of the Committee, on behalf of the Defense Task Force on Sexual Assault in the Military Services, thank you for the opportunity to discuss the findings and recommendations of our Task Force. Our capacity here today is solely as representatives of the Task Force; we do not represent the Military Services, the Department of Defense (DoD) or the Administration. Although we were appointed by the Secretary of Defense, the views we express are the carefully considered views of our Task Force.

Based upon direction outlined in Section 576 of Public Law 108-375, the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 and amplifying guidance issued by the Secretary of Defense, the Defense Task Force on Sexual Assault in the Military Services conducted a detailed review of matters related to sexual assault in which members of the Armed Forces are either victims or commit acts of sexual assault. The composition of our ten-member Task Force enabled a thorough assessment of sexual assault programs, policies, procedures, practices, and trends: Task Force members included uniformed personnel from each of the military services, as well as civilian experts affiliated with federal and non-profit organizations that address sexual assault issues.

METHODOLOGY

Over the course of 15 months following our initial meeting on August 11, 2008, the Task Force visited 60 military locations worldwide and met with over 3,500 individuals. We met with deployed military personnel in Iraq, Kuwait, Qatar and Bahrain, as well as recently redeployed personnel from Afghanistan. Our interviews included active duty as well as reserve component personnel, senior military and civilian leaders, general court-martial convening authorities, legal and investigative officials, Sexual Assault Response Coordinators, victim advocates, and primary responders such as medical providers, lawyers and chaplains. We further surveyed Sexual Assault Response Coordinators, their supervisors, and victim advocates in order to obtain their assessment of SAPR program effectiveness. In addition, we reviewed hundreds of criminal investigative files from the military services, data from across the Department of Defense (DoD), related reports,

studies, and articles. We also interviewed 61 victims of sexual assault and received written accounts from other victims.

SUMMARY

On 1 December 2009, we submitted our report of findings and recommendations to the Secretary of Defense. Our review found that DOD overall has made notable progress in addressing sexual assault since the establishment of the Sexual Assault Prevention and Response (SAPR) Program in 2005. Key to this progress has been heightened awareness attributable to leadership emphasis and involvement at all levels, increased program funding, and establishment of dedicated SAPR positions. At the same time, we found many opportunities for improvement. Specifically, while DOD has made important improvements in responding to victims' needs, there must be greater focus on effectively addressing the spectrum of sexual assault prevention and response. In our recommendations, we highlight the need for substantial institutional emphasis on preventing sexual assault: doing so is not only a moral imperative, but is critical to military readiness. To this end, we recommend developing greater consistency among the military services and their reserve components, particularly given the increasing nature of joint operations and basing. We also make several recommendations geared to increase collaboration among the military services, as well as with civilian communities and organizations engaged in sexual assault prevention and response efforts. In formulating our recommendations, we addressed the need for greater strategic oversight of the SAPR Program, developing more effective prevention and training strategies, improving care and responsiveness to victims, and ensuring appropriate accountability.

STRATEGIC OVERSIGHT

Our Task Force makes a number of recommendations related to the strategic oversight and direction of the SAPR program. We found that the current organizational placement of the Sexual Assault Prevention and Response Office (SAPRO) has limited its visibility and ability to effectively address integral cross-cutting issues. We therefore recommend the Deputy Secretary of Defense provide oversight for SAPRO for at least one year or until the SAPR Program is meeting established institutional goals. We realize this recommendation may be considered unconventional, but believe that higher level

oversight will ensure appropriate funding and focus on a program that is at a critical juncture.

Military and civilian officials at all levels advised that funding for the SAPR Program was often inconsistent and insufficient. We believe this issue can best be resolved by DOD including SAPR Program funding in its Program Objective Memorandum budgeting process to ensure allocation of specific and sufficient funding. Adequate resources are also essential to conduct research across the full spectrum of prevention and response. In fact, we believe research collaboration and strategic partnerships with civilian research initiatives would be particularly helpful. SAPRO should continue to leverage the expertise, information, and resources of public and private entities facing similar challenges, such as colleges and universities as well as national organizations and coalitions dedicated to eliminating sexual assault and providing victim support. Research funding is essential to identify effective prevention strategies and initiatives, as well as meaningful incidence metrics; presently, there is no such research.

Our Task Force noted that SAPRO does not provide policy or oversight for several of its significant responsibilities. For this reason, we recommend that DOD restructure SAPRO to include the expertise essential to address prevention, response, training, and accountability. Given that military personnel are increasingly serving in joint and deployed environments, the Task Force believes SAPRO must also drive consistency across the Services in policy, terminology, personnel structures, and standards for managing and assessing the SAPR Program. We found lack of standardization in significant areas such as SAPR Program structures and funding, training and deployment preparation, terminologies used in policies and training, reporting and response procedures, and interpretation of SAPR guidance. For a DoD-wide program and for an issue that affects personnel in all Services, we believe greater standardization is essential.

PREVENTION AND TRAINING

Our Task Force firmly believes that prevention of sexual assault must be the primary goal of the DoD SAPR program. While DoD's focus on prevention has increased over the past year, it remains insufficient in our view. In particular, at the time our Task Force

began compiling findings and recommendations, SAPRO had not articulated a clear, overarching prevention strategy. Prevention of sexual assault requires close scrutiny of cultural beliefs, values, practices, and structures. Moreover, to be successful, awareness and involvement among those in the military community are essential. Our Task Force believes that DoD has a tremendous opportunity to collaborate with outside experts in developing a comprehensive prevention strategy, improving current prevention and response training, and engaging leadership at all levels to improve military culture with regard to both sexual harassment and assault. We recommend that SAPRO, in close collaboration with the military services and national experts in sexual assault prevention, develop a prevention strategy that is far more comprehensive in nature. This strategy should be used to guide SAPR initiatives, processes, training, and communication outreach. To maximize effectiveness and synergy, military service prevention activities and programs should align with DOD's strategic emphasis.

Commanders, as well as other military and civilian leaders, must be well-trained on SAPR. Accordingly, we recommend more tailored SAPR training for leadership and maturity levels, as well as developmental training for military as well as civilian personnel throughout their continuum of service. In addition, personnel responsible for responding to victims of sexual assault generally require more specialized training on sexual assault response than they currently receive. We recommend that this training be specifically integrated into all initial and recurring first responder training courses. We also recommend that training for Sexual Assault Response Coordinators and victim advocates become more professionalized, particularly the continuing education needed to further develop skill proficiency and awareness.

Leadership clearly has a profound influence on the prevention of sexual assault, from strategy development and execution, to continued focus and open discussion of the issue. Commanders and leaders must take an active role in addressing the issue and modeling correct behavior. Our Task Force found that, when leadership was not involved, SAPR training was generally perceived as yet another mandatory training requirement to fulfill as opposed to a problem to understand and address. As a result, we recommend that all commanders and senior enlisted leaders be actively involved in SAPR training and

awareness programs. We also recommend that installation and operational commanders vigilantly assess the adequacy of measures to ensure the safest and most secure living and working environments.

VICTIM RESPONSE

A key element of the DoD Program is affording sexual assault victims a restricted reporting option, which allows access to confidential medical care and counseling. The restricted reporting option also provides victims an opportunity to consider their rights and responsibilities before deciding whether to make a formal complaint. Once a formal complaint is made, confidentiality is greatly diminished. Accordingly, despite these positive strides, restricted reporting does not provide a truly confidential resource for the victim throughout the healing and legal processes. We believe this limitation is a significant barrier to providing effective response to victims; this barrier is even more pronounced in deployed and isolated environments. In the military community, the only practical source of privileged advice is the chaplain. The reality is that many victims are reluctant to seek help from a chaplain about a sexual assault. In civilian communities, medical personnel can provide privileged advice and counsel; this is not the case for military providers. The net effect is that military sexual assault victims have little ability to discuss their circumstances with others. The victim advocate is available but must advise the victim that, should he or she decide to pursue an unrestricted report, all communications with the victim are discoverable by the alleged assailant's attorney. Based upon the fact that 35 states have granted effective privilege to communications between victims and victim advocates, we recommend Congress enact a comprehensive military justice privilege for communications between military victims of sexual assault and victim advocates.

Although effective victim advocates are essential to a victim-centered SAPR program, DOD requires no formal certification for its victim advocates. As a result, we also recommend that service members who report they were sexually assaulted be afforded the assistance of a nationally certified victim advocate. Our Task Force found that sexual assault victims are frequently dissatisfied with how they are treated during the investigative process, often because they participate in this process without fully

understanding their rights and the limitations of their rights. We recommend that victims of sexual assault be immediately aware of their rights, including the opportunity to consult with legal counsel – qualified in accordance with Article 27(b) of the Uniform Code of Military Justice – to minimize victim confusion during the investigative process.

Men as well as women are sexually assaulted. The social pressure against reporting these crimes, regardless of gender, can be extremely intense. In the most recent anonymous *Gender Relations Survey of Active Duty Members*, 6.8 % of women and 1.8 % of men indicated they experienced unwanted sexual contact in the past 12 months. Accordingly, we recommend establishment of gender-specific medical care protocols for all victims of sexual assault. It is imperative that these victims receive immediate treatment for their injuries; be screened, receive a forensic examination, and treated for sexually transmitted diseases. Integrated care must be made available for military sexual assault victims at any location, to include those who are deployed

ACCOUNTABILITY

Accurate and comprehensive data is essential to achieving accountability for responders and those who are accused of criminal activities. Without meaningful data, trend analysis and efforts to effectively address issues become problematic. Our Task Force found DoD's procedures for collecting and documenting data about military sexual assault incidents to be lacking in accuracy, reliability, and validity. As one example, the most recent DoD report to Congress combined offender and victim data. We offer a series of recommendations for DOD to better comply with data requirements specified by Congress, while ensuring the data is consistent and comparable.

The military justice process plays an important role in victim care and recovery. Our Task Force found that neither victims nor other military personnel were routinely informed of the results of disciplinary actions relating to sexual assault. Focus groups specifically indicated that commanders generally did not communicate case results to members of their command, and that this lack of information often led to misperceptions, rumors, and assumptions that allegations were unfounded. As a result, we recommend

that both victims and other military personnel within the affected command be informed of the disciplinary action results related to sexual assault.

Finally, legal practitioners consistently advised the Task Force that the new Article 120 of the Uniformed Code of Military Justice, the article that addresses sexual misconduct, is cumbersome and confusing. Based upon the consistency of this feedback, we recommend a review of the effectiveness of Article 120.

BEST PRACTICES

During our review of DoD sexual assault programs, policies and practices, we identified emerging best practices in addition to areas for improvement. We highlighted these best practices in our report. From the headquarters of the military services to the small-unit level, we found the key factor among these best practices to be consistently engaged leadership. We encourage the DoD SAPRO to develop an overarching strategy that can leverage these best practices, and others like them, for the highly effective results these practices are yielding to improve sexual assault awareness, prevention, training, response, and accountability in the military services.

CLOSING

On behalf of our Task Force members, several of whom have worked these issues for several decades, thank you for your leadership and concern on this important matter. The proud men and women who join our Armed Forces accept many risks associated with their service to our country. None of us believe the risk of sexual assault is a condition they should accept as part of their service. Sexual assault is a scourge that requires vigilance and skill to address. We believe our Task Force has provided to you and to the Department of Defense a blueprint that will greatly attenuate the risk of sexual assault and its devastating consequences from occurring among the ranks of those who serve. Thank you again for the opportunity to testify today; we would be pleased to answer any questions you have.

Mr. TIERNEY. Thank you. I want to thank you both for your abbreviated testimony.

Dr. Whitley.

STATEMENT OF KAYE WHITLEY

Dr. WHITLEY. Mr. Chairman, Ranking Member Flake and members of the subcommittee, thank you so much for inviting me to discuss the progress that the Department of Defense has made in preventing and responding to sexual assault. Since we provided written testimony, I will keep my remarks brief.

The reason for our commitment to this issue is clear. Sexual assault levies a tremendous human toll, disrupts lives and destroys the human spirit. While we talk about these Department-wide efforts, we should always keep in mind that behind each of these numbers, there is an individual whose life is changed forever.

Our policies and programs continue to improve. I would like to recognize the collaborative efforts of my DOD colleagues. For example, the strategic plan and oversight framework was the product of hundreds of hours of collaboration. The activities identified in these documents will greatly expand my office's efforts, and to that end, we have already begun to restructure the SAPRO office, and we will grow from 7 to 21 employees.

We have received more than 100 recommendations from the GAO, the DTFSAMS and our Inspector General. We were already working on many of these recommendations. However, others are new and they will strengthen and expand our program.

We are working with nationally known experts in the civilian communities and premier civilian organizations and State coalitions to improve our prevention and response efforts. Further, we are members of an interagency group led by the White House Office on Women and Girls to explore ways that all Federal agencies can work together to prevent interpersonal violence in society, as well as in the military.

I would like to thank my leadership, especially Ms. McGinn, and our staffs for their dedication. We also want to express our appreciation to all of the SAPR staffs around the world, not just in the Pentagon, who work every day on this program. It is because of their efforts that we have implemented many of the things in our new program.

We believe that we have made great strides in training. We have to train more than 2 million service members, and then we have to train a huge cadre of professionals to respond to sexual assault, even sexual assault response coordinators, victim advocates, chaplains, commanders, trial counsel, investigators. So training all of those responders around the world is a big task.

Your oversight is key to our progress, and also working with the GAO and the members and staff of the DTFSAMS has been a pleasure. Throughout this process, we have all worked very closely together, because we all want to make the military a better place for those who serve to keep us safe.

Our task is daunting, and we recruit from a society where sexual assault is one of the most under-reported crimes. And we do understand that there is more to do, and we will welcome your continued attention and oversight. Thank you for your support.
[The prepared statement of Dr. Whitley follows:]

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STATEMENT

OF

Dr. KAYE WHITLEY

DIRECTOR

SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE

OFFICE OF THE SECRETARY OF DEFENSE

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON

SEXUAL ASSAULT IN THE MILITARY

FEBRUARY 24, 2010

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NATIONAL SECURITY AND FOREIGN AFFAIRS SUBCOMMITTEE

Introduction

Mr. Chairman, Ranking Member Flake, thank you for inviting me today to discuss the progress the Department of Defense has made in recent years on sexual assault. Ms. McGinn has provided you an overview of the Department-wide efforts. I would like to focus on the efforts of my office, the Sexual Assault Prevention and Response Office (SAPRO) working in partnership with the Military Services. As a team, we are making great headway to institutionalize, standardize and professionalize our programs. Once we achieve all three, we hope to realize our vision: A culture free of sexual assault.

Background: What Guides Us

Before I go into detail regarding our programs, I want to be clear on the reasons why we are so passionate about stopping sexual assault in the military. These reasons serve as the basis for many of our programs. First, sexual assault levies a tremendous human toll. It can disrupt lives and destroy the human spirit. Although many victims will recover, some will never be the same. The lives of these soldiers, sailors, airmen, and marines will be forever altered. The bottom line is sexual assault is a crime that undermines the core values of our Armed Forces.

When we turn to the battlefield, we know that sexual assault degrades mission readiness and combat effectiveness. A sexual assault reverberates throughout a unit and beyond, degrading readiness by reducing the Service members' ability to work effectively as a team. In addition, unit leadership attention shifts from the normal duties of maintaining readiness to addressing an alleged perpetrator's misconduct or witness and victim needs and restoring the unit's cohesion and trust.

Finally, taking a global view, sexual assault can subvert strategic goodwill. The impact of one sexual assault may last for years. The strained relations due to sexual assault reports in Iraq, Japan, and other countries illustrate the negative global impact of a single Service member's criminal actions.

There is no doubt in my mind that addressing the human toll is what motivates us. Past that, the reasons laid out above show the many different ways a sexual

assault can impact the Department. Recognizing these various “touch points” has been key in the development and implementation of our prevention and response strategies.

Our Approach to Prevention

Recognizing that audiences are motivated by different messages and messengers, we are implementing a multi-tiered prevention strategy. Our *Sexual Assault Prevention Strategy* was developed in FY08 with the assistance of civilian experts including Dr. Pat McGann from Men Can Stop Rape, Dr. Antonia Abbey from Wayne State University, Dr. Paul Schewe from University of Illinois, Chicago, and Gail Stern of Catharsis Consulting. The Strategy continues to be the centerpiece of the Department’s SAPR efforts in FY09 and beyond.

The strategy uses the “Spectrum of Prevention” as the framework for creating our world-wide prevention program. The Spectrum of Prevention describes several populations and levels of influence that are appropriate targets for outreach. Activities range from training for individuals to influencing policy at the highest levels of an organization. By addressing sexual assault at each level of the Spectrum, the Department’s goal is to be at the forefront of prevention nationally and provide a model for others to follow. As we do this, we begin to institutionalize our prevention efforts which we believe will lead to long-term success.

There are many actions we plan to implement with our Prevention Strategy. This year we launched an initiative to change attitudes and expectations within military society. The Spectrum of Prevention tells us with whom we need to be talking. To get to the idea of *what* should we be saying, we again turned to national prevention experts. Their recommendation was to develop a research based program that, at its core, relies on bystander intervention. In addition, our experts advised that we tie all of our current and forthcoming interventions together with a powerful social marketing campaign. To do so, the Department partnered with Men Can Stop Rape, a non-profit organization well known for its excellence in social marketing. After adapting their successful campaign and extensive testing with our internal audiences, we knew our message would resonate well within DoD. The resulting theme, “My Strength Is for Defending:

Preventing Sexual Assault Is Part of My Duty,” is focused on the ability of every Service member to prevent sexual assault by taking an active role in looking out for the welfare of friends and co-workers. It also highlights the linkage of preventing sexual assault to each Service member’s responsibility for mission readiness. SAPRO and the Services have developed training and education materials to reach every level of the DoD community with this bystander intervention message.

The Department is not the first institution to attempt a comprehensive prevention program. Given his history as the president of the sixth largest university in the country, the Secretary of Defense requested the Association of American Universities (AAU) work with my office to identify promising campus SAPR programs. With the help of AAU and the Department of Justice’s Office on Violence Against Women (OVW), SAPRO identified 10 college programs for further research. SAPRO made contact with these universities to collect and review additional program information, and identified the University of Kentucky and Rutgers, The State University of New Jersey, for site visits.

SAPRO staff members completed visits with the University of Kentucky and Rutgers, and took away lessons on several innovative prevention programs. The “Green Dot” program at the University of Kentucky is an innovative violence prevention strategy based on several research areas, including social diffusion theory, bystander intervention, and perpetrator behaviors. At Rutgers, members of Students Challenging Realities and Educating Against Myths or “SCREAM” Theater participate in improvisational theater performances that educate their peers on sexual assault prevention and encourage bystander intervention. Both of these innovative programs are based in research, have data to support their efficacy, and have promise for and applicability to the SAPR program. As the *Sexual Assault Prevention Strategy* is refined during the next year, SAPRO will determine how to incorporate these programs’ best practices into the revised strategy.

While we are spending a lot of effort to get out the message of our prevention programs, we also need to ensure we can determine if those messages are being understood and retained by our various audiences. To that end, this year we are

starting to field a series of surveys which will tell us who we have reached. These results will be reported back to the Department through the Personnel and Readiness strategic plan.

Expanded Response Efforts

While institutionalizing our prevention program, we need to ensure we have robust response programs in place should a sexual assault occur. A recent addition to our response program grew out of a Department of Justice-funded project with the Pennsylvania Coalition Against Rape. Entitled *Strengthening Military-Civilian Community Partnerships to Respond to Sexual Assault*, the project developed an interactive two-day training curriculum that helps civilian agencies assist military victims of sexual assault and their families. This program allowed us to share knowledge on military systems, protocols, and culture to improve services to military sexual assault victims. It also helped build SAPRO's awareness of the perspectives and initiatives of its community partners. We are currently researching the possibility of a second phase of this project.

We know from talking to victims that one of the hardest decisions is how to take the first step to get help. We need to make that as simple and as available as possible. To that end, we have been working with the Rape, Abuse, and Incest National Network (RAINN) to improve care to military sexual assault victims. RAINN hosts the secure, live, web-based National Sexual Assault Online Hotline, which enables victims of sexual assault to reach out to receive help via an instant-messaging format. RAINN also operates the National Sexual Assault Hotline, which provides victims a toll-free telephone number. SAPRO is now working with RAINN to enhance both its hotlines to provide additional avenues for military members. These will provide victims with crisis support and information about reporting securely and anonymously, and connect victims with a local Sexual Assault Response Coordinator.

SAPR Oversight

Since its establishment, my office has served as the single point of responsibility in the Department for oversight. Our office has conducted a wide range of oversight

activities, including the mandated annual reports to Congress on the Military Services and the Academies, as well as, responding to congressional inquiries and DoD leadership updates. In addition, our Policy Assistance Visits have provided insights to assist us in strengthening our policy.

Based on a recommendation from the GAO, the Department recognized the need for our oversight activities to expand. In 2009, SAPRO and a team of internal and external experts conducted an offsite meeting to discuss the most effective way for the Department to conduct this expanded oversight mission. We documented the current state of our oversight efforts and ended by identifying the future state which reflects a more comprehensive framework. In addition to providing important guidance on those objectives, another major benefit of this process was the more intangible consensus building atmosphere which is key to long-term success.

Given the Department-wide focus of the oversight effort, we sought to keep these objectives as strategic as possible. The following three objectives served as the basis for designing the Oversight Framework, I'll describe shortly:

1. To consistently and effectively gauge how well we are executing against policy;
2. To provide clear and comprehensive oversight of DoD-wide SAPR efforts to improve program effectiveness; and
3. To standardize evaluating and reporting procedures across DoD.

These objectives chartered our path. In reviewing the SAPR program within DoD, we identified eight major areas of oversight activity, ranging from policy review, communications and training, to SAPR data and metrics.

It quickly became clear that the execution of this oversight approach across these eight activity areas—coupled with SAPRO's current duties—would require my office to expand its staffing. In response, during FY09, SAPRO created a plan to reorganize and add additional manpower, bringing the total number of projected SAPRO positions to 21 by the end of FY11. This new workforce structure is funded in the FY 10 and FY

11 budgets. As the reorganization is finalized, the Department will consider recommendations by the Government Accountability Office and the Defense Task Force on Sexual Assault in the Military Services, which could affect the final office configuration.

We have begun the implementation of the staffing process needed to support the expanded oversight efforts. For example, we have an Air Force O-6 to serve as the Deputy Director of Programs, as well as, a senior-level civilian to serve as Oversight Program Manager and lead the implementation of our oversight program. The hiring process is underway for the other positions needed for this oversight function. This oversight framework coupled with the Defense Sexual Assault Incident Database discussed in Ms. McGinn's testimony will ensure we can track our progress.

The development of the Oversight Framework has truly been a collaborative effort across the Department. While SAPRO takes the lead in the implementation, this is really a process involving all the Services and several other stakeholder groups designed to ensure our SAPR programs are achieving the desired objectives. It is this kind of DoD-wide endeavor that tells me the Department is making great headway in the institutionalization of the SAPR program.

Our Way Ahead

Our task is daunting since we recruit from a society where sexual assault is one of the most underreported violent crimes. We train more than two million Service Members in prevention and we train a cadre of responders, including Sexual Assault Response Coordinators, Victim Advocates, Commanders, Trial Counsel, Investigators, Chaplains, and Medical and Mental Health Teams who all work together to provide the best care possible to the victims and hold offenders accountable.

Research suggests that changing attitudes, behaviors, and beliefs takes eight to 10 years. We are seeing those changes occur especially in the support for the program from our senior military leaders. I have engaged with senior commanders in the Pentagon, in the field, and with the Superintendents and Commandants of our Military

Academies. They are committed to this program and they are knowledgeable and involved.

The oversight program, as recommended by the GAO, will ensure we are moving in the right direction. Our by-stander intervention prevention program will have an impact on many generations of Service Members; from the newest recruit to the most senior members of our Department all have a role in stopping sexual assault. And we will continue to do all that we can to reduce the stigma associated with reporting this crime.

Our Service members have dedicated their lives to protecting our country. Together we are working to provide them the protection from sexual assault that they deserve.

In closing, I would like to thank the Committee for their interest and support. And I would like to thank every member of each of the GAO audit teams and every member of the DTFSAMS. The results of their dedicated work has culminated in recommendations that will move our program forward and give us the support and resources we need to make progress. Working with these professionals has truly been a pleasure.

Thank you for your time. I welcome your questions at this time.

Mr. TIERNEY. Thank you, Doctor.
Ms. McGinn.

STATEMENT OF GAIL MCGINN

Ms. MCGINN. Mr. Chairman, Ranking Member Flake, other members of the subcommittee, I too thank you for the opportunity to appear before you today to discuss the Department's progress in addressing the crime of sexual assault. I also submitted a long testimony for the record, so this will be very brief.

But the answer, I think, to the question posed by this hearing, are we making progress, is yes. We are making progress, but we are certainly not at the finish line. We won't be at the finish line until we have eliminated sexual assault in the armed forces.

In 2008, we had over 2,900 reported assaults. And we know from survey results that this is only a portion of those that reportedly occurred. Only about 20 percent of service members who experience unwanted sexual contact report the matter to a military authority. So indeed, we need a strong prevention strategy, an effective training strategy and potent measures to ensure that we are heading in the right direction.

I understand that some of this is uncharted territory. Thus, we want to work with the right experts and in concert with the military departments to advance our knowledge as we go forward.

I was pleased to see that the Defense Task Force on Sexual Assault in the Military Services emphasized service culture. For indeed, we need a culture that extends the concept of watching out for your buddy in danger on the battlefield to watching out for your buddy in danger of sexual assault. This was the theme of our last prevention strategy, and one that we need to constantly emphasize.

But we have made progress. In 2005, when we established the Sexual Assault Prevention and Response Office, we believed we needed a small policy office to formalize instructions we had issued, identify new policy concerns and address them, and evaluate implementation, kind of a standard policy model for us.

Over the ensuing years, in conversations with the Congress, this subcommittee, the GAO and the Task Force, it became clear that the Office needed to expand its mission and thus become more robust. Dr. Whitley, who you just heard from, has done a great job managing that expansion with advancements coming in investigator and trial counsel training, the development of our congressionally directed database, initiation of the first Department-wide prevention effort, and development of a strategic plan and oversight framework. Indeed, we welcome the reports of the Task Force and the GAO as we continue to refine our approach and determine further steps.

Today, leadership support of our efforts has never been stronger. It begins with the Secretary of Defense and the Chairman of the Joint Chiefs and continues with the dedicated efforts of our service secretaries and senior military leadership. The military departments are making every effort to ensure that every service member knows that sexual assault is unacceptable and to assure that there is help for victims as they need it.

Just last week, we welcomed our new Under Secretary for Personnel and Readiness, Dr. Clifford Stanley, to the Department. He

has indicated that he is also determined to advance our efforts in this regard.

So in closing, let me thank the subcommittee for your support of this very important program. I am happy to answer any questions you may have.

[The prepared statement of Ms. McGinn follows:]

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STATEMENT

OF

MS. GAIL H. MCGINN

DEPUTY UNDER SECRETARY OF DEFENSE (PLANS)

BEFORE THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

SUBCOMMITTEE ON NATIONAL SECURITY AND FOREIGN AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

OVERSIGHT HEARING ON

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Introduction

Mr. Chairman, Ranking Member Flake, I am pleased to be here today to provide you an update on the significant progress the Department of Defense has made in combating the crime of sexual assault. In my comments below, my goal is to ensure you are aware of the significant inroads in institutionalizing the sexual assault prevention and response program, as well as to identify what we have yet to accomplish.

I would like to begin by saying that our starting point is now—and has always been—that one sexual assault is too many. Sexual assault is a crime and this crime is incompatible with service in the United States Armed Forces. It undermines core values, degrades military readiness, subverts strategic goodwill, and forever changes the lives of victims and their families. In the Armed Forces, sexual assault not only degrades individual resilience, but also erodes unit integrity. Service members risk their lives for each other and seek to keep fellow Service members out of harm's way. Sexual assault breaks this important bond and tears apart military units. An effective fighting force cannot tolerate sexual assault within its ranks. Sexual assault is incompatible with military culture, and the costs and consequences for mission accomplishment are unbearable.

As you may recall, in 2005, the Department enacted the Sexual Assault Prevention and Response (SAPR) Program to encourage increased reporting of the crime, facilitate improved access to victim care, better organize response resources, and promote prevention. The Department's vision is to enhance military readiness by establishing a culture free from sexual violence. Since the institution of that policy, the

Office of the Secretary of Defense and each of the Service Secretaries have implemented extensive programs to achieve that vision. Our Service members deserve nothing less.

History

Before detailing our recent progress, let me first provide a brief reminder of the history of the Department's efforts to combat sexual assault within the military. In 2004, the Department aggressively changed its approach to sexual assault prevention and response after hearing of reports of sexual assault from Service members deployed to Iraq and Kuwait. On February 5, 2004, then-Secretary of Defense Donald Rumsfeld directed the Department to undertake a 90-day review of all sexual assault policies and programs and recommend changes to increase prevention, promote reporting, enhance the quality and support provided to victims, and improve accountability for offender actions. The DoD Care for Victims of Sexual Assault Task Force was created, and it later identified 35 key findings relevant to sexual assault policies and programs among the Military Services and the Department. The Task Force proposed nine broad recommendations for immediate, near-term, and long-term corrective action.

In response to these recommendations, the Department established the Joint Task Force for Sexual Assault Prevention and Response (JTF-SAPR) in October 2004 to develop a comprehensive SAPR policy for the Department based on the recommendations of the Care for Victims of Sexual Assault Task Force. In addition, the JTF-SAPR considered the requirements specified in NDAA FY05 directing the Department to have a sexual assault policy in place by January 1, 2005.

The JTF-SAPR authored 13 Directive-Type Memoranda (DTM) that fundamentally changed DoD policy, including the addition of a confidential reporting option for victims. These DTMs were the foundation of the two policy documents used today: DoD Directive (DoDD) 6495.01, *The Sexual Assault Prevention and Response (SAPR) Program*,¹ and DoD Instruction (DoDI) 6495.02, *Sexual Assault Prevention and Response Program Procedures*.² DoDI 6495.02 was modified in FY09 to strengthen initial policy by closing DoD-identified gaps and clarifying Military Service responsibilities.

In October 2005, the Department established the Sexual Assault Prevention and Response Office (SAPRO) to take over as the single point of responsibility for SAPR policy in the Department. (Medical care, legal processes, and criminal investigations remain the responsibility of the Office of the Assistant Secretary of Defense for Health Affairs, the Judge Advocates General of the Military Services, and the DoD Inspector General, respectively.) The Director of SAPRO, Dr. Kaye Whitley, is also testifying today and will offer a detailed account of SAPRO's accomplishments.

I would like to acknowledge the work of the Defense Task Force on Sexual Assault in the Military Services (DTF-SAMS). After the work we had done to get policies, procedures, programs and structure in place, it was important to know if we got it right. The Task Force has given us important work to do in order to further advance the Department's response to this crime.

¹ DoD Directive 6495.01 is current as of November 7, 2008.

² DoD Instruction 6495.02 is current as of November 13, 2008.

Secretary of Defense Initiatives on Sexual Assault

I can assure you that the issue of sexual assault gets attention at the highest levels of the Department. For example, to offer further guidance to the policies put in place in 2005, in FY08, Secretary of Defense Robert Gates identified four priorities in SAPR programming:

- Reducing sexual assault reporting stigma;
- Ensuring sufficient commander training and accountability;
- Ensuring investigator training and resourcing; and
- Ensuring trial counsel training.

In FY09, the Secretaries of the Military Departments briefed the Secretary of Defense on their progress toward addressing these priorities. As noted below, significant progress has been made in each area:

- ***Reducing Reporting Stigma***

Despite the SAPR policy changes, education, and training instituted during the past five years, a DoD-wide survey indicated that most Service members are reluctant to report being the victim of a sexual assault. To overcome this, the Department has addressed stigma in training at all levels of the military, from accession, pre-command, post-deployment integration, as well as mandatory annual refresher training. The messages delivered via training sessions are reinforced by educational outreach efforts. Through a Department-wide awareness campaign, called "Real Warriors", Service members are getting the message that reaching out for help in times of need is a sign of strength. These training and outreach initiatives

emphasize that reporting sexual assault and seeking care is not just acceptable in the military; it is desirable.

- ***Ensuring Sufficient Commander Training and Accountability***

Numerous actions were taken to improve commander training and accountability in FY09. For example, in many different venues, the Secretary of Defense, Military Service Secretaries, and other senior Military Service leaders have communicated expectations to commanders in the field that they will actively support the DoD SAPR program. Also, the Military Services were tasked to work with their staffs to identify key components of the Military Service's SAPR program for assessment.

As a function of the Department's oversight mission, the Department conducted a review of commander training to ensure it was compliant and effective. Through Policy Assistance Team (PAT) visits to eight sites, the Department found that the observed training met the requirements of DoDI 6495.02, and PATs found no problems with the training as implemented. Each Military Service had fully institutionalized SAPR into its commander training and each employed well-qualified, knowledgeable instructors with a SARC, service program manager, or certified instructor conducting the trainings.

Ensuring adequate time for SAPR training was found to be the greatest challenge because of the quantity of information commanders are required to know. However, each of the Military Services was found to work well within the time constraints. Trainings also varied in format, class size, structure, and length. All trainings utilized

case scenarios and group discussions. Future PAT visits will continue to oversee commander training and apply additional tools currently in development by the Department to measure training effectiveness.

- ***Ensuring Investigator Training and Resourcing***

In early FY09, the Military Services jointly reviewed Military Criminal Investigative Organization training and recommended to the Department that training standards be revised to ensure requirements reflect the needs of law enforcement and military criminal investigators responsible for addressing issues and procedures applicable to sexual assault cases. Each of the Services provides basic training to their military criminal investigators, as well as some form of advanced training. While sexual assault and ancillary topics are addressed, these basic courses lack the time or detail needed for advanced investigative techniques specific to sexual assault. In addition, Service courses do not regularly reach all investigators at a given career point.

In FY10, the Department has begun to develop a scope of work to develop an advanced sexual assault investigations course for DoD criminal investigators. This course will provide sustainment training to experienced investigators that increases relevant knowledge and skills, as identified by experts from both the DoD and the civilian sector. The course will be for both military and civilian criminal sexual assault investigators with the DoD. The course is expected to be a mix of classroom training and practical exercises with interactions with simulated victims, witnesses, and

perpetrators. In FY2010, the Department has planned resources of \$3 million to support this Service training.

- ***Ensuring Trial Counsel Training***

In early FY09, the Military Services jointly reviewed trial counsel training and recommended to the Department that training standards be revised to ensure requirements reflect the needs of Judge Advocates who are responsible for addressing issues and procedures applicable to sexual assault cases. Together, the Military Services identified a 22-module training program that would provide trial counsel with information and practice necessary to prepare to prosecute sexual assault cases. As the next step, the Department put a contract in place to develop the *Sexual Assault Trial Counsel Electronic Training System* to provide e-learning and simulated training for each of the 22 modules. This system will support and enhance the current DoD and Judge Advocate sexual assault training and response objectives.

In FY09, more than \$2 million was directed toward Service trial counsel training as well as joint training. Additional joint training is being planned for FY10 and beyond.

Military Service Commitment: Senior Leadership Involvement

In addition to the initiatives of Secretary Gates, each of the Military Services has implemented broad-based programs designed to prevent sexual assault and respond should it occur. The underlying assumption for all Service efforts is simple: Every Service member has a role in preventing sexual assault. As a first step in combating

sexual assault, the Department requires all Service members in both Active and Reserve Components to receive annual awareness training. In addition, sexual assault awareness instruction is a mandatory component of all accession training, professional military education programs, and pre-command courses.

These training efforts tie into the broader goal of the Department and the Services to achieve a culture change related to sexual assault. As with any issue affecting our culture, lasting change occurs when senior leaders throughout the Department demonstrate their commitment to fighting this crime. In working with each of the Services on this issue, I can tell you the commitment of the Military Services' leadership is clear and unwavering.

As illustration of this high-level commitment, leadership in each of the Services held prevention-focused meetings in FY08 and FY09, including the following:

- Department of the Army Sexual Assault Prevention and Risk Reduction Training Summit (Three- and Two-star General Officers in attendance; September 2008)
- Department of the Air Force Sexual Assault Prevention and Response Leader Summit (Wing and Vice Wing Commanders in attendance; November 2008)
- Department of the Army "I. A.M. Strong" Sexual Harassment/Sexual Assault Prevention Summit (Senior Officer and Senior Enlisted leadership in attendance; April 2009)
- Department of the Navy Sexual Assault Prevention and Response Summit (Senior Navy and Marine Corps officers in attendance; September 2009).

The sustainability of prevention initiatives ultimately lies with military commanders. Senior leadership summits like those listed above demonstrate the level of sincere commitment to the prevention of sexual assault in the military.

Military Service Commitment: Service Member Training

In addition to senior leader education, the Military Services have been developing prevention training for every level of their organization. While each training program ties back to the concepts of sexual assault prevention, each of the Services has customized their training initiatives. Examples from the Services include:

- The Department of the Air Force is currently fielding a well-researched prevention training program designed in three modules: Training for Men, Training for Women, and Training for Leaders.
- Within the Department of the Army, the Commanding General of U.S. Army Europe hosted a full-day training event for 149 of his senior military and civilian leaders.
- The Department of the Navy has expanded its number and type of prevention training venues and has accessed civilian agencies to enhance the visibility of SAPR training programs.
- The U.S. Marine Corps revitalized its "Mentors in Violence Prevention" Train-the-Trainer program at the Non-Commissioned Officer Academies.

Measuring Training Effectiveness

While training is the starting point of changing our culture, we can't stop there. Most training targets the modification of knowledge, skills, and behaviors associated

with deterring criminal behavior and mitigating risks, but we also need to know if this training is effective and lasting. Are our Service members retaining and acting on the information they learn in these sessions? To answer that question, the Military Services are developing methods for measuring program effectiveness.

This will be a tough problem to solve. Civilian experts working in the area of sexual assault prevention have yet to arrive at a widely agreed-upon set of outcome metrics for prevention programs. Also, social science research has yet to produce evaluative methods that reliably track personal and social behavior change beyond a few months. Nevertheless, the Department is working to identify metrics or other evaluative means to track prevention program progress.

Funding Support

No matter how important the issue, success will be difficult unless a program is appropriately funded over the long term. I can tell you that because of the importance of this issue to the Department, we have invested a significant amount of time and planned resources to our sexual assault prevention efforts.

In a move to further institutionalize the SAPR programs, in FY09 program element codes were established for the individual SAPR programs. FY10 SAPR resources will approximately increase from \$111 million Department-wide to \$113 million in FY11. Looking at SAPRO specifically, funding requirements increased from \$5 million in FY09 to more than \$23 million in FY10; nearly a fivefold increase in funding support. These investments will enable the Department to conduct oversight of sexual

assault prevention and response policies and program implementation to ensure compliance with DoD policy and consistency in the quality and effectiveness of programs.

SAPR Program Institutionalized in DoD Strategic Planning

In the area that I oversee, Personnel and Readiness, the issue of sexual assault has been included in past strategic plans, but with the new strategic plan I signed in December, the emphasis is even greater. In connecting the issue to readiness, our intent is to create a culture free of sexual assault. To assess our effectiveness in getting there, we have included four new performance objectives in the Personnel and Readiness Strategic Plan for FY10-FY12. Those objectives will address:

- Awareness of prevention and response programs, and confidence in the response programs;
- Implementation of the Defense Sexual Assault Incident Database;
- Care of victims; and
- Actual reports compared to responses to anonymous survey.

We are developing baseline statistics for these measures in FY10. Once in place, our performance on these objectives will help us track progress on awareness and implementation of desired program elements.

Being included in the Personnel and Readiness Strategic Plan will ensure that the issue of sexual assault is considered in how the Department does business each day. In addition, because of the complexity and breadth of the SAPR program, the Department developed the *DoD-Wide SAPR Strategic Plan FY10-15* which is a

compilation of the SAPR-specific strategic plans from the Military Services and SAPRO. Each of the Military Services and SAPRO has had individual plans in the past—and continue to do so—but with this new DoD-wide SAPR document, we can start to see the areas of greatest leverage across the Department as well as potential gaps.

Our Strategic-Level Focus: Victim Care

The strategic planning documents I reference above are built around three key pillars: victim care, prevention and system accountability. I would like to offer a few details from the Department-level perspective on how we are addressing each pillar. Dr. Whitley will add more detail on SAPRO-specific activities.

Starting with victim care: The Department is improving victim resources and the capabilities of personnel who respond to sexual assault allegations. When the Department adopted SAPR policy in 2005, it used promising practices from the civilian community as a framework to shape the military's response system.

This system comprises professionals from several disciplines who work as a team to provide expert care for victims worldwide 24 hours a day, seven days a week. Victim care begins immediately upon the report of a sexual assault. At the heart of the sexual assault response system are the Sexual Assault Response Coordinators (SARCs) and Victim Advocates (VAs). Every military installation in the world, both in garrison and deployed, have SARCs and VAs who provide the human element to the Department's response. In addition to ensuring the victims are safe, the SARCs and

VAs provide the victim with a person to whom they can talk about their experience and be validated, while also laying out resources available to victims.

We know that victim care is an issue that must be addressed through multiple channels—both inside and outside the Department. Within the Department, we continue to strengthen internal and external partnerships with organizations that help care for victims. For example, the Department is working with the non-profit Rape, Abuse, and Incest National Network to expand its nationally recognized hotline (telephone and web-based) so military victims can be directed to appropriate care. Since the crime of sexual assault is a challenge facing our entire country—not just DoD—ties with our federal partners and non-profits are key to ensuring we share best practices and identify trends. In the coming year, we intend to continue this information-sharing effort as we work toward developing practices that will benefit Americans inside and outside the military community.

Our Strategic-Level Focus: Prevention

While we need to be able to react to the needs of a victim, we must also be pushing with equal intent to prevent this crime in the first place. In working with the experts in this field, we know that a comprehensive prevention effort is actually much more complicated than “just say no.” In fact, prevention comprises several initiatives.

The Department’s *Sexual Assault Prevention Strategy* draws together many of these initiatives with specific focus on bystander intervention education. The bystander effect can be understood as someone being less likely to intervene in an emergency

situation when other people are present. Bystander intervention education is designed to empower people to act in such situations. The Department desires such empowerment to build on the core military values of honor, respect, courage, and integrity and a "protect your fellow soldier, marine, shipmate, or airman" attitude. A bystander program affords all members of the Department the opportunity to play a role in preventing their "brothers and sisters" in the military from becoming victims or perpetrators of sexual assault.

The Department's goal is to prevent sexual assault through institutionalized prevention efforts that influence the knowledge, skills, and behaviors of Service members to stop a sexual assault before it occurs. At the beginning of the year, the Department provided its *DoD Sexual Assault Prevention Strategy* to the senior leadership of each Military Service and the National Guard Bureau. As part of this comprehensive strategy, the Department deployed a social marketing campaign during its observance of Sexual Assault Awareness Month (SAAM), setting the expectation that preventing sexual assault is part of everyone's duty. In support of the DoD strategy, the Secretary of Defense met with the Service Secretaries in July 2009 on the topic of sexual assault in the military.

Our Strategic-Level Focus: System Oversight and Accountability

A key component of the success of any program is tracking to ensure all the moving parts are working as desired, that is, that programs are being implemented as planned and on deadline. To that end, the Department has directed significant effort to ensure a robust oversight and accountability system is in place. This "system

accountability" is achieved through data collection, analysis, and reporting of case outcomes, as well as review of ongoing SAPR efforts to ensure the desired programmatic and problem solutions are being attained.

We have benefitted to date from the efforts of the DTF-SAMS and the GAO which have been in the field reviewing our work. Now we need to institutionalize our own oversight framework. To that end, throughout FY09, representatives from Office of the Secretary and the Military Services worked collaboratively to define a roadmap to institutionalize SAPR oversight activities. The resulting document, *Oversight Framework for SAPR*, lays out the oversight process for the entire Department to implement over a three-year timeframe, with SAPRO as the lead implementer.

The starting point for the development of this oversight strategy was the identification of the challenges faced by the Department's previous approach to oversight. In response to these challenges, the *Oversight Framework for SAPR* created a standardized approach for monitoring, analyzing, and reporting on the SAPR program through several activities. Once fully implemented, the Oversight Framework will be a process for the Department to track how we are doing against desired activities articulated in the Department's various strategic plans.

Defense Sexual Assault Incident Database

In order to improve data collection, analysis, and case management, the Department initiated the development of the Defense Sexual Assault Incident Database (DSAID), as mandated in NDAA FY09. The Military Services have agreed to update

their own data systems to support DSAID, making it the Department's official source for sexual assault reporting and analysis. This centralized, case-level database will capture and enable the analysis of comprehensive sexual assault data to inform sexual assault policy development, program implementation, and victim care provision within the Armed Forces.

Representatives of the Department have provided several briefings to various committees since the database was first mandated. Since the last briefings to Congress in August 2009, DoD has made significant progress towards launching DSAID's development. This progress includes the completion of mandatory acquisition documentation, requirements analyses and creation, and policy regulations. Steps were taken to coordinate proactively with the Services to ensure their ability to use DSAID once implemented. This early coordination is intended to speed the implementation of the database.

The Department is in the process of identifying an appropriate vendor to develop and maintain DSAID. On January 15, 2010, DoD released its Request for Proposal and following the completion of the required contracting review process, DoD expects to award this contract in the third quarter of Fiscal Year 2010. At that time, the developer will be required to provide an updated project timeline.

External SAPR Reviews

In addition to the ongoing reviews done by the Office of the Secretary of Defense and the Military Services, the Department has recently assisted in reviews by several organizations not directly involved with SAPR programs, including the DoD Inspector

General (IG), Government Accountability Office (GAO), and Defense Task Force on Sexual Assault in the Military Services (DTF-SAMS).

Starting with the DoD IG, its FY09 report recommended that the Department consider modifying SAPR policy to include DoD contractors who are both U.S. citizens and contingency contractor personnel authorized to accompany U.S. Armed Forces stationed outside of the Continental U.S. In response to this recommendation, we are currently in the process of developing SAPR policy to address this recommendation. The Department will explore all legal, acquisitions, and contract issues associated with this suggested expansion. The Military Services also engaged in internal oversight activities through their own OIGs. For example, the IG of the USMC collaborated with the IG of the Navy to conduct the Command/Unit Inspection Program, an in-depth examination of the SAPR program. Further, the Department plans to launch a review of the Reserve Component.

The GAO has also been conducting reviews of the DoD SAPR program as requested by this committee. The Department has participated in GAO's review by holding briefings on DoD programs, providing documentation, and writing responses to demonstrate the Department's improvement of policies and programs in the short time since GAO issued the preceding report. We look forward to reviewing and implementing the GAO's recommendations.

As noted earlier, the DTF-SAMS was established on October 3, 2005, to examine matters relating to sexual assault in which members of the Armed Forces are

either victims or perpetrators of sexual assault. Over the course of the year, the Department has responded to two data calls from the task force, provided several briefings on SAPR policy and programs, and attended public meetings of the Task Force. The DTF-SAMS report was submitted to the Secretary of Defense in December 2009. Our response to the Task Force's findings will be reported to Congress in March 2010.

Without a doubt, our programs and policies have benefitted from the many thoughtful recommendations offered by SAPR stakeholders both inside and outside the Department. We welcome and will consider any observation, recommendation or "good idea" that could help eliminate sexual assault in the Armed Forces.

Significant Progress with More to Do

As noted throughout this testimony, we have made significant progress in addressing sexual assault, but we recognize we have more to do. The coming years will provide many opportunities for the Department to further plan, improve, and communicate about the SAPR program. For example, we will continue to develop DSAID so we can obtain a more accurate picture of how and where we need to expand our prevention and response elements. We will continue to aggressively pursue standardizing response methods across the Military Services. Finally, we look forward to addressing the findings and recommendations from both the GAO and DTF-SAMS, knowing that each report has recommended changes that we expect to substantially enhance the Department's abilities to prevent sexual assault, support victims, and hold offenders accountable.

In closing, let me restate our fundamental belief: One sexual assault in the military is too many. The best way to address sexual assault is to prevent it. As a result, the Department is employing its most effective resource—its people—to identify situations that lead to sexual assault and to safely intervene. Achieving the necessary shift in attitudes, beliefs, and behaviors across the several generations represented in a force of more than two million is no small undertaking. Time and substantial resources are being dedicated specifically to this purpose. The Department stands committed to its goal of ensuring military readiness by establishing a culture free of sexual violence. This country and its men and women in uniform deserve nothing less.

Thank you for your interest and support. I would be happy to address any additional questions you might have.

Mr. TIERNEY. Thank you very much.

Thank all of you for helping us frame the issue here. We are going to take about a 20 minute break for votes and be back at that point in time. Thank you.

[Recess.]

Mr. TIERNEY. Thank you for your forbearance.

Mr. Turner, you had wanted an opportunity to give a brief opening statement, and now might be a good time for that, if you would.

Mr. TURNER. Thank you, Mr. Chairman. I want to thank you for your continued focus and effort here.

I also want to thank Jane Harman for her career-long focus on this. We have had the good fortune to work with Jane on a number of issues.

As some of you know, my initial interest in this came about by the unfortunate murder of Maria Lauterbach, who is from my community. That brought to light several issue as to how rapes are handled within the command and for the victim. So I have worked with a number of members on issues where we have tried to find ways to change both laws and to work with DOD on ways that we can enhance the protection to victims and also find ways to provide them additional support.

This report is, I think, an excellent report for a basis to begin the process of looking at additional ways that we can support victims. I want to focus on one aspect, an item that I know is important to all of you, and that is the issue of culture. Almost in every sexual assault hearing that I go to, I read this provision of an answer that I got as a response to questions that I had submitted concerning Maria Lauterbach. General Kramlich of the U.S. Marine Corps was responding to a series of questions that I had posed with respect to the Maria Lauterbach case. And a number of statements were made through DOD and the Marines that I found troubling. One of those was they had indicated that they had no notice that Maria Lauterbach might be at risk, because there had been no violence that had been alleged in the allegations of what had occurred to her.

So I wrote a question of, doesn't a rape accusation inherently contain an element of force or threat? The answer that I got back was that in May 2007, when Lauterbach formally made allegations of rape against Laurean, the command was only made aware of two reported sexual encounters, one sexual encounter characterized as consensual by Lauterbach and the other alleged to be rape. Lauterbach never alleged any violence of threat of violence in either sexual encounter.

Now, the reason why I read that in every hearing, because when we have the issue of culture, I would hope that throughout DOD, no one would ever write again that any sexual assault could not have an allegation of violence or threat of violence. Because as we all know, it is inherent in the sexual assault itself.

So with that, Mr. Chairman, I thank you for bringing the spotlight to this. I know that we all have a lot of work to do, and we appreciate the work that you are undertaking.

[The prepared statement of Hon. Michael R. Turner follows:]

Honorable Michael R. Turner
Remarks for House Government Reform Committee Hearing on
Sexual Assault in the Military
February 24, 2010

- I would like to thank the Chairman and Ranking Member for holding this hearing on a very serious issue confronting our military personnel.
- The issue of sexual assault in the Armed Forces is one which I have been closely monitoring and have actively sought to address through legislation, including three defense authorization bills and a stand-alone bill with Rep. Jane Harman.
- For the last three years, I have been working with Mary Lauterbach, the mother of Marine Lance Corporal Maria Lauterbach, to prevent sexual assault in the military, strengthen the rights and protection of victims in the military, as well as address how the military reports and adjudicates sexual assault cases. Maria was allegedly raped and then murdered while stationed in Camp Lejeune in 2007.
- Thus far, my efforts have helped to: (1) make Military Protective Orders a standing order and the requirement that civilian authorities are informed of Military Protective Orders issued on base; (2) require the Secretary of Defense to ensure that service members who are party to a Military Protective Order are notified of their right to request a base transfer for their protection; (3) strengthen protections of military personnel; and (4) provide

greater oversight of the actions taken by the Department of Defense by requesting several reports, including:

- 1) A report by the GAO detailing the capacity of each service branch to investigate and adjudicate allegations of sexual assault, including any barriers to the investigation.
 - 2) A report by the Department of Defense on a sexual assault prevention program including an action plan, timeline for implementation, mechanism for outcome measurement and training courses for commanders and senior enlisted leaders
- I look forward to hearing recommendations from both of these reports from our witnesses today on what else can Congress and Department of Defense do to stem sexual assault in our military.
 - Sexual assault in the military is an issue paramount to the integrity, readiness and health of our force. It is also the right thing to do for our service men and women who sacrifice so much to protect the United State. We need to ensure we protect them from sexual assault. I want to again thank the chairman for this hearing.

Mr. TIERNEY. Thank you. We will begin the questioning, if nobody has any objection to that.

Dr. Whitley, back in August 2008, we had a report from the Government Accountability Office, which made nine recommendations to improve the Department's Sexual Assault Prevention and Response programs. Today's report from the GAO states that you have implemented only four of those recommendations, and two of those four were actually addressed by non-SAPRO Task Forces.

So can you explain to us why some 18 months after the report came out, such a small percentage of those nine remaining objectives have been dealt with effectively?

Dr. WHITLEY. We may have actually addressed more since then. I could probably answer the question better if we talked specific recommendations.

I know one thing that was of particular interest to you, sir, was the oversight framework and the strategic plan. We have completed that. I did take it, per your suggestion, to Ms. Farrell and give her a briefing on it. They made suggestions. I went back and took their edits and their suggestions. That has been completed and we have already begun some implementation. We are still waiting for it to be signed on by the new Under Secretary.

Mr. TIERNEY. Ms. Farrell, of the five that were unaddressed at all of your recommendations, can you prioritize those for us?

Ms. FARRELL. Certainly. I would like to focus on the oversight plan. We do appreciate the cooperation that we received from DOD by sharing the draft framework with us during our review, so that we could see it and analyze it and comment on it. They should be given credit for laying a foundation for their oversight framework, which is quite a challenge. But that oversight framework, strategic plan, whatever you want to call it, based on our body of work, looking at best practices of successful organizations that are results-oriented, there are identifiable key elements that you would want to see in the oversight framework, which we noted in the August 2008 report.

At a minimum, you want clear goals, objectives, milestones and performance measures. Performance measures are very key for that road map. As I mentioned in the opening, performance measures are necessary to gauge where you are as you are headed toward your goal, and to measure and make a course change, if necessary. That is one of the key elements that is missing in that oversight framework, is the performance measurement.

Another that we discussed with DOD back in November, before we sent the draft report over with the recommendations that we would like to see is once you have the performance measures, you need strategies of what you are going to do with the results once you get them in order to make those course corrections.

Another element we would like to see is tying the program objectives with budget priorities. This is very key, because that will help DOD to support justification for any resources that they need, whether it is personnel or funding.

Last, there were three documents that DOD provided to us during the review. And sometimes you will have one comprehensive strategic plan, sometimes there are multiple documents. That is

fine. We do not take issue with how many documents they have that comprise their strategic framework.

But with the three documents provided to us, it was difficult to tell how they complemented each other. Two of the documents had five objectives that did match up. But then the oversight framework that they discussed with us and provided to us that was responding to our recommendation had nine improvement initiatives that we could not correlate back. So it is still not clear to us what that oversight framework that they provided to us, where that fit with the other documents that comprised their strategic planning.

Mr. TIERNEY. Dr. Whitley, is that helpful? Is that something you can work with Ms. Farrell and correct?

Dr. WHITLEY. Absolutely. We did take the plan back, after my meeting with her, and we developed a user guide. We also have requirements in the Department to have a strategic plan. It would be confusing to someone looking at three documents. We have to align ours with the Personnel and Readiness plan and the Secretary's plan. We also had to go back and refit all of that.

Then the oversight framework, we hung that, if you will, on our strategic plan and saw that as part of our oversight. We see our role as prevention, victim care and response. And then our role is system accountability. That is where we hung the framework. I think now we have made it more user friendly. We have also developed measures.

One of the things that we talked about at the last hearing, our civilian and Federal partners all struggle with finding the best measures for sexual assault. Because as you know, you can't use reports, because it so under-reported. So we are looking at ways now to measure prevention and response. We are able to get at least four or five measures in the P&R strategic plan. We are going to measure awareness, we are going to measure victim satisfaction, and we are developing surveys. It is a challenge, and there are not many models out there.

Mr. TIERNEY. It seems to me that you have a good working relationship with GAO, and I appreciate that. So I am trusting that you will be able to continue that and resolve those issues. I think they provide value added to you and are a resource for you. So I appreciate that you are working with them and being open about it. We will expect that those things will be resolved.

Ms. McGinn, just before my time is up, how are you aligning the resources to this, the money, so people will know that we are serious about it and it is going to get funded appropriately? And two, the General made a good point: are you going to be able, at the Department of Defense, to undertake a review of the Guard and Reserve at the State and unit level?

Ms. MCGINN. We have just recently, I think it was last year, established program element codes. Into those program element codes the military services put their money that they have dedicated to this program, so that we have visibility over it, and we can see that it is in there and it is not being cut or it is growing or whatever. I think in fiscal year 2010, there is about \$110 million so far that the service had identified.

In addition to that, we have succeeded in getting additional funding for the Sexual Assault Prevention and Response Office, \$20

million, to help with our outreach efforts, our oversight efforts with the development of the database and those kinds of things. So one, we are watching the money and two, we are actively engaging in the budget process to try to find more money where necessary for it.

We absolutely believe we need to look harder at the Guard and Reserve. We are looking at ways that we might do that. We do have a yellow ribbon program, as you know, that works with the Guard and Reserve, and we are involving the Guard and Reserve in our various oversight committees. We agree with that recommendation. We will take action on that.

Mr. TIERNEY. Mr. Flake.

Mr. FLAKE. Thank you.

Brigadier General Dunbar, you mentioned in your testimony that things were improving. I just wasn't quite clear as to if you are referring to fewer incidents of abuse, and how would that be measured, or that the plan being implemented, that is improving in speed. Can you qualify that statement? Maybe I heard it wrong, but you mentioned something like that.

General Dunbar. In terms of improving, what I am referring to is that the program focus certainly within the services, the leadership attention that is being given to it from the Chairman of the Joint Chiefs of Staff to the service secretaries and service chiefs, down to in some locations, not universally all locations, unit commander involvement in addressing the issue. From the SAPRO standpoint, I think since 2005, the establishment of restrictive reporting, which I think a lot of commanders were very reluctant to embrace, now many people are seeing that as very good because more victims are coming forward, those victims who wouldn't have come forward had they not had that restrictive reporting option.

So I think awareness is growing and appreciation for a lot of the mechanisms, thanks to Congress' oversight, and thanks to the continued emphasis. We are having folks come on board, people are accepting the fact that sexual assault does occur with the military services and it needs to be addressed.

So from a program standpoint, response has increased, even in the prevention area, which we were initially finding lacking. The fact that the DOD SAPRO office is really working the bystander intervention, all the services are addressing that. That is positive progress. But at the same time, one of the concerns that we have is that bystander intervention is not the be all, end all in terms of a comprehensive prevention strategy, and that more needs to be done.

So progress, but still more to be done.

Mr. FLAKE. Can somebody tell me, over the past, say, 2 years, have the reported cases of sexual abuse gone up or down?

Dr. WHITLEY. We have had approximately 3,000 reports each year. We will be releasing our fiscal year 2009 report on March 15th. We already know the numbers have gone up slightly. We want people to report. That is our goal.

Mr. FLAKE. My next question is, certainly the recommendations include increased awareness and education, and with that comes reporting requirements. Recognizing that part of the improvement is getting more people to come forward, are there metrics then to

gauge whether we are improving or not in terms of incidence of sexual abuse, independent of how many are reported?

Dr. WHITLEY. We are developing a survey with the Defense Manpower Data Center to ask people on the survey if they have experienced unwanted sexual contact and if they have reported it. One statistic I do have since we have had restrictive reporting, starting in the middle of June 2005: we have had over 2,600 people use the restrictive option reporting. So that is data that tells me that is something that we should continue and that is a good option for us in reducing barriers to reporting. We are working on other ways to measure the prevalence of sexual assault.

Even in society, statistics show us that only about 18 to 20 percent of victims report to an authority. So it is vastly underreported. So what we are doing in our program is we are trying to remove the barriers that keep people from coming forward and to try to build climates of confidence and to reduce stigma. We want to reduce stigma for any type of mental health that people are seeking.

Mr. FLAKE. Thank you.

Mr. TIERNEY. Mr. Turner, you are recognized for 5 minutes.

Mr. TURNER. Thank you, Mr. Chairman.

After you all testify, there will be a gentleman who is testifying whose name is Merle Wilberding, who is an attorney, who has worked with the Lauterbach family, and has worked with my office on some of the legislation that we have sponsored on issues such as military protective orders, ensuring that they don't expire, and also that local jurisdictions are notified. Because actually in Marla Lauterbach's case, the local jurisdiction did not know that a military protective order had been put in place. We changed that in legislation with the National Defense Authorization Act.

In addition to representing them, I just want to give you one fact about his legal career. As an Army JAG captain, he was assigned the responsibility to represent the Government in the Lieutenant Calley appeal of his conviction in the infamous My Lai massacre. So he has a little bit of information on the inside, in addition to representing this family.

In his testimony, one of the things he is going to highlight is the issue of the victim advocates. He is going to lay out the case of whether or not people feel that system is responsive. And then he has a recommendation that perhaps victim advocates need to establish a line of authority outside the base chain of command. I wondered if you all might comment on that, having looked at the issue through your Task Force. That is not something that you have recommended. But I would be interested to get your thoughts on that.

General Dunbar, why don't we start with you?

General DUNBAR. Congressman Turner, one of the things that we did recommend was to provide some confidentiality with the victim advocates. Because in the statistics that we saw, approximately 78 percent of the attorneys who were prosecuting cases had indicated that they would, or in the defense, would subpoena victim advocate records. So when you know that you have victims who we tell to go to a victim advocate to seek the care and yet, at the same time, know that they are vulnerable to having whatever they disclose be

used against them, that is not what we consider to be providing adequate victim support.

We do think that you can establish a system that allows the victim advocates to have that confidentiality and still have them within the military structure as opposed to going outside of a military reporting machine.

So in answer to your question, we did not explore specifically the proposal that you have outlined. But we recognize the importance of victim advocates and the care that they provide, and realize that we have a deficiency as it currently is set up.

Mr. TURNER. Do you have an opinion on that issue, on his recommendation?

Dr. WHITLEY. Well, sir, as I said, I do believe that we can cure the issue without having to have the victim advocates report outside the chain of command. There are a variety of options I think that exist.

Mr. TURNER. Anyone else wish to comment on the issue of chain of command?

Ms. MCGINN. If I could?

Mr. TURNER. Yes.

Ms. MCGINN. I think, we want commanders to be involved, and to be proactive and to be advocates and to help solve these problems. I think there could be a little bit of danger taking this outside the chain of command, that you would create a space where the commander wouldn't know what was going on, would not be involved, and would set up almost a conflicting relationship. So I would just caution that I think we want commanders, as I said, to be involved in this process and to understand their responsibilities and to respond correctly.

Mr. TURNER. General.

General DUNBAR. If I could just add, I think the issue, especially in our review as we looked at restrictive reporting, we have found that the commanders, if they know that certain restrictions exist, they respect those restrictions. So whether it is within the chain of command, if a victim advocate were granted confidentiality, I think a commander would jeopardize his or her position by trying to pry information out of a victim advocate.

So that is basically why I think we have options that we can work within.

Admiral IASIELLO. If I may weigh in on this, too, we found one of the issues, access to a commander, is critical for the health of the program. So with the Sexual Assault Response Coordinators, when they had that access with their commanders and were able to voice their concerns and bring issues before them, we felt that they were very successful in what they were trying to do.

When they had two or three levels of bureaucracy that they were trying to deal with, their effectiveness as response coordinators was significantly diminished. That is why the use of contractors as Sexual Assault Response Coordinators was one of our recommendations. We think that access is critical. It is not only important to the program, but as many people have mentioned, the commander sets the tone. And the commander really needs to know what is going on in his or her command.

Mr. TURNER. With the chairman's indulgence, the reason why I find it an important recommendation is because in the military, the situation is so unique in that the military in effect has a custodial relationship with the victim, where they can't get up and leave. They are told where they are to be. You don't have the same freedom of movement that you would have if you were a victim in the private sector.

And then to have what is ultimately up the chain of command, your boss, having the same people reporting to you that are supposed to be aiding you, the inherent conflicts of interest are just obvious as to how they could arise. So I do think it is something for us to have more discussion on. Thank you, Mr. Chairman.

Mr. TIERNEY. Thank you.

Ms. Harman, we want to welcome you to the subcommittee, and thank you for your interest in this subject, and your leadership on it, and welcome you to give us 5 minutes of questioning, if you would.

Ms. HARMAN. Thank you, Mr. Chairman. I appreciate the fact that this subcommittee on a bipartisan basis has held four hearings on this subject. There is intense concern from Congress about what I would call an epidemic of assault and rape in the military, which I view as both a moral problem and a force protection problem.

And at a time when the public looks at Congress and thinks we can't do anything together, I hope everyone was listening up. I think both sides of the aisle in this subcommittee are equally concerned. I know, Mike, that the Lauterbach family is very lucky to have you as their representative. You have been passionate about this issue, which is something we all need to be.

On that point, only one of you, and that was Dr. Whitley, mentioned in personal terms the toll that rape and assault takes on people. Dr. Whitley said it changes a human being's life forever. And it may terminate some human beings' lives, as in the case of Maria Lauterbach. So I think we have to keep that in mind. It is not just a question of statistics and strategies and milestones and goals. This is a deeply personal issue. It is a violation of one's physical space and as I guess the only woman member sitting up here, I want to say how strongly I feel about this and how urgently we have to fix this.

I guess my message and my questions today are focused on prevention. It is good to, you have all heard me say this in the past, it is good to be better at response and better at victim care. I applaud you for trying to do that. And it is good to coordinate the statistics and create more comfort for victims to come forward. All of that is important.

But wouldn't it be better if we didn't have victims? Let's get a sense of the proportion of this. In August 2007, I went to the West Los Angeles VA, where there is a women's clinic. I was blown away to hear that 41 percent of the female veterans they see are victims of military sexual trauma, and 29 percent were raped. Now, this isn't a scientific survey, but I am sure those are accurate figures for 3 years ago in the West LA VA. And generalizing this to the country gets me to my little sound bite, which is, a woman is more

likely to be raped in the military by a fellow soldier than killed by enemy fire.

So my question to you is, shouldn't we be doing more about prevention? I welcome your response, each of you. And specifically, shouldn't we be doing more of what the Army is doing with its I Am Strong campaign, by hiring outside investigators and prosecutors to teach a team of 300, I understand, prosecutors in the Army to do a better job of investigating and prosecuting these rapes and assaults, so it sends a strong message to people that you cross a red line, either as a perpetrator or someone in the chain of command, and you pay a big penalty?

Ms. Farrell.

Ms. FARRELL. Thank you. I would like to note regarding that first part, our report does note that not only does sexual assault have implications for the individual, but for the family, the friends, the colleagues, the whole community besides the unique impact, obviously, on the military, that we were discussing earlier.

Regarding prevention, shouldn't that be important, I believe all three—

Ms. HARMAN. Shouldn't it be more important, more emphasized.

Ms. FARRELL. It should be, it is prevention, response, and resolution. So I think there has to be emphasis on all three. As you know, after SAPRO was established, the emphasis was really more on response, taking care of the victims was driving. It is just, I think in the last year, and of course, DOD can speak to this more, where they have gotten more of a handle on the prevention. And that is what we are looking for. Again, in the strategy of what are the clear goals of what are you trying to accomplish. By having a very clear goal on prevention and how you are going to get there, maybe we will see this, actually, the numbers go down.

Ms. HARMAN. Mr. Chairman, could others just answer my question? I know my time is expiring.

Mr. TIERNEY. Sure.

Dr. WHITLEY. Thank you always for the support that you have given this program, Ms. Harman. One of the things, I know the Army came out with their I Am Strong campaign, and the Department has a DOD-wide strategy. We work very closely with the Centers for Disease Control and use their spectrum of prevention, which tells us you have to work the strategy at every level, from the individual all the way up to policies and laws. And we also work with the National Sexual Violence Resource Center.

Each of the services, in fact, the Navy and the Air Force each held summits just a few months ago. They brought in their highest levels of leadership. I can tell you, in talking with some of the generals that were there, and the leaders, they are all on board. I think we have a very strong prevention campaign and strategy in all of the services now.

Ms. HARMAN. If I could add, I had noted that there needs to be a greater emphasis on prevention. Having the strategy is great, the bystander intervention is one facet of it. But it also includes the community awareness and physical safety. For instance, when we were over in the AOR, how you actually set up a location, where you put the female latrine, where you site the female tents, sometimes we have the cultural issues of this is the way it has always

been done before. Likewise, even when you are going through the dormitory or the barracks areas, basic security measures. In some of the newer facilities, you find that you have the video cameras, surveillance cameras that are set up.

A lot of it is driven by culture. The more awareness that we have in addressing the issues, the greater you can provide prevention at basic levels. The key to all this is leadership involvement. The senior leadership of the services, no doubt, are all engaged, as I mentioned, the chairman is engaged. That needs to populate down to unit commanders, who have to understand that they have to be out front addressing this issue on a regular basis, and have candid discussions of the fact that sexual assault is not tolerated. And even those things continue on to include sexual harassment, that those behaviors are not going to be accepted within service in the Armed Forces.

Ms. MCGINN. Could I just add one thing about culture, because the military culture is created. And we take young people off the streets of America and we send them to basic training and we turn them into soldiers, sailors, airmen and Marines. While it is a more long-term solution, if we look to what we already know in terms of how to create soldiers, sailors, airmen and Marines, couldn't we also look to how we change attitudes and how we inculcate this as a cultural issue?

I would just to note, I was reviewing service programs in preparation for this. I was struck by the fact that the Army, for their new recruits, the new recruits receive sexual assault training during their reception, during the first week of basic training, just prior to their first overnight pass and upon advanced individual training entrance. So that kind of emphasis I think at the basic training level would go a long way for us.

Ms. HARMAN. Thank you.

Admiral IASIELLO. If I may, you have highlighted what was for us as a Task Force one of the most critical recommendations, that we have a comprehensive prevention strategy, cross-service, that is given a strategic leadership by the SAPRO office, which has the measurements in there to know whether it is working or not, to give us the granularity to be able to identify trends, to see whether or not it is in fact doing what it is supposed to do.

But one of the other recommendations which ties into it is the fact that we don't feel the DOD can do this alone. If we are going to develop a truly effective, comprehensive prevention strategy, we need to partner with our national allies in this effort, with academia, with the national alliances against rape and crimes against women. We need to partner with these experts throughout the country so that we can move forward with a comprehensive prevention strategy and results.

Mr. TIERNEY. Thank you Ms. Harman. Thank all of you.

I think I am going to give people an opportunity to just ask another question or two, if they have it, before we let you all go. When you talked about culture, Ms. McGinn, I was thinking, what we listened to at the last hearing was a connection, by one of the witnesses, the connection between the ban on women in ground combat and sexual assault. Specifically, that witness testified that the ban sends a signal from the top that women are second class

soldiers and thus inferior to male soldiers. The inferiority perpetuates an antagonistic view of women that helps create a culture that is conducive to sexual assault. Do you want to reflect on that for us, whether you think that is true or not and what we might do about it if it is?

Ms. MCGINN. I haven't really given that any thought. I do know that, and I think it was in the last Task Force report on the academies, Dr. Iasiello can correct me, the Task Force noted that at the academies the percentage of women that you had made a difference in terms of the attitudes and the way that people were treated, that there needed to be kind of a critical mass of women there.

I don't know that the ban necessarily creates an issue for us. I hadn't really thought that through.

Mr. TIERNEY. We can provide that testimony for you, so you might be able to take a look at it and let us know what you think about it at some other time.

Ms. MCGINN. OK, that would be fine.

Mr. TIERNEY. I don't want to hit you unfairly, but it struck me when you were saying that, it tied in on that.

Mr. Hite, you have been very good to sit there through the whole hearing. I do want to ask you to weigh in in terms of data collection, where you think we are on that, what needs to be done to make sure we are at the point we need to be.

Mr. HITE. Certainly, Mr. Chairman. For any large database like this, it should be viewed as a process. It is a journey that you have to walk down. So I would say at this juncture that the Department is at the end of the beginning of the process.

There are some things that have been done, I give them credit for that. But there really is a lot that still remains to be done. While I am cautiously optimistic going forward, in part because the Department agreed with the recommendations we laid out, which was things that needed to be done going forward, I do have some doubts. And some of those doubts surround what I believe is the need for perhaps more staffing in the program office that is devoted to the acquisition and implementation of this database, and to make sure that we are not too reliant on contractors to do that work for us.

Mr. TIERNEY. Thank you very much.

Finally, the last question I had on this was priorities for the General and the Admiral to address. I think you mentioned one of them, prevention, was amongst the many recommendations that you made to improve the prevention and response program. Is there another priority that you think needs attention right away, and to a better degree than it is getting now?

General DUNBAR. We have already discussed the data. We absolutely believe that the database and the tracking for accountability is essential in order to be able to do trend analysis to further address the issue. Without that, I would continue to just kind of chase tails around the table.

Mr. TIERNEY. Great.

Mr. Flake, did you have any other questions?

Mr. FLAKE. I will just yield my time to Mr. Turner.

Mr. TIERNEY. Mr. Turner.

Mr. TURNER. Thank you, Mr. Chairman.

In looking to the report, General Dunbar, you and I spoke about the issue that there are a number of recommendations in it that are for congressional action. As you know, the National Defense Authorization Act will be moving here in the next couple of months. Jane Harman and I last year got a number of things that were in it. Obviously the report, we can peruse through it and pick out those things that are highlighted as congressional action, to take action. But I wondered if DOD in response to the report had plans on providing us the legislative direction in some of the areas that you are making a suggestion that Congress take action. Is that on your to-do list, or will you be leaving it to us to go through the report and begin to initiate those items?

General DUNBAR. Congressman Turner, we provided those recommendations to the Department of Defense and the Secretary of Defense and the military services are looking at that. They will be providing, Secretary of Defense, I believe on the 1st of March, will be providing the report with his comments. So we will leave it up to the Department of Defense. The Task Force for the most part has concluded its review in providing the report to the Secretary of Defense.

Mr. TURNER. Ms. McGinn, they had some very specific recommendations. When we met in my office, I saw the urgency of it and was saying, gosh, we need to get on these. As you know, the bill will be moving in the next couple of months. I wouldn't want to miss a whole year that DOD has it on its agenda to get those items to us.

Ms. MCGINN. If I am not mistaken, I think in the process right now, we have been working with the military departments, looking at all of the recommendations of the Task Force, and sorting out an overall DOD response. Because not everybody agrees with everything. So our job is to adjudicate that and make it a consolidated decision for the Secretary.

As we do that, if we see things that need legislative action, we can certainly formulate them for legislative action.

Mr. TURNER. I appreciate your commitment on that. Because on the ones that you agree with that are on the report, we should move now. And rather than our just taking them and putting them forward and then waiting for a response, it would be great if we could work together on that.

Ms. MCGINN. Just to be honest with you, our process might take longer than that. The process is a bureaucratic process in the building.

Mr. TURNER. Well, that is the information I need to know. Because if we need to start the process without DOD, we certainly have the report. I can get with Members, including Jane, to see what items that she sees that are important that we might need to move forward.

Mr. TIERNEY. Thank you.

Ms. Harman, do you have an additional comment?

Ms. HARMAN. Thank you, Mr. Chairman. I assume your committee member—

Mr. TIERNEY. Ms. Speier, if you are done. She is next and final here.

Ms. HARMAN. I would yield to you first. Do I have to go now?

Mr. TIERNEY. If you have it, go with it.

Ms. HARMAN. OK. Two things. First, the comment on leadership, I surely agree. I have spoken personally to the Secretary of Defense and the Chairman of the Joint Chiefs about speaking out on this issue. We all know that don't ask, don't tell has gotten a lot of air time lately. I personally hope we repeal that policy. But they have spoken out on that issue. And I would just use my time to urge them to speak out on this very compelling issue.

But here is my question. I understand in the new GAO report you have findings, for example, that say victims don't seek prosecutions for fear of a humiliating public trial. You also say that half the women who do not report rape or sexual assault do so for fear of retaliation. There are remedies for these things. For example, you could recommend some way to close the trial so it would not be publicly humiliating, or you could recommend that people have an easier time to see a base transfer, in the case of those who worry that they would be retaliated against. That was one of the issues in the Lauterbach problem.

Why didn't you make those recommendations?

Ms. FARRELL. I think this is the Task Force report, not to be confused with the GAO report.

Ms. HARMAN. Excuse me, I did confuse it with yours. Defense Task Force, you folks in the middle, why didn't you make those recommendations?

Admiral IASIELLO. I think, Congresswoman, all the many areas that we looked at, we understood the role of leadership, we understood when we went around and interviewed all the commanders, especially the courts martial convening authorities in every place, and if you saw the extensive list of visitations that we did.

Ms. HARMAN. Right.

Admiral IASIELLO. We looked at whether or not they aggressively addressed the issue of sexual assault and how aggressively they prosecuted any sort of concerns that arose within their commands. The feeling that we got as a Task Force was that the majority, the major majority of commanders and courts martial convening authorities not only take this seriously, but they are out aggressively prosecuting where they can with the advice of counsel.

As far as the safety issues, we have specific recommendations for the safety of victims. And we were very, very concerned about the way victims were treated once they reported to their command. And even those that in a restricted way reported to the chaplain or someone else, as the General mentioned, we were very concerned about the safety and security issues. We even went into the barracks and the dormitories of the Air Force, we went to see about the security issues that were there, and how people were handled, how they were processed, how they were tended to whenever they reported an incident of sexual assault.

So that was part of our focus, a very important part of our focus. And our recommendations, I think, did address some of those issues.

Ms. HARMAN. Well, let me just conclude, Mr. Chairman. I think the rate of prosecutions lags way behind civil society. I think there is much more to do. Part of it is a training issue for prosecutors.

Again, I think the Army offers the best example for what needs to be done there.

And on the safety issue, there are some specific recommendations that I think could have been in your report and weren't. For example, facilitating base transfer, which would encourage a lot of women to come forward who would otherwise be afraid to do so, and if they did so in the case of Lauterbach, would have a horrible outcome. So I think there is more to do, and I think it needs to focus around prevention much more than just response. We would get a lot farther a lot faster with this epidemic among those who step forward to protect our country and who in fact we don't protect well enough.

Thank you, Mr. Chairman. I appreciate the opportunity to be here.

Mr. TIERNEY. Thank you, Ms. Harman. We appreciate your interest and concern.

The gentlewoman from California, Ms. Speier, we thank you for your interest and for your leadership on this issue. We are happy you could join us here today. You are recognized for 5 minutes.

Ms. SPEIER. Thank you, Mr. Chairman.

A question to the Task Force. My understanding is that in 2008, there were 2,265 unrestricted reports that were filed. Of those reports, how many of them then were pursued as full criminal investigations and court martials?

General DUNBAR. Congresswoman, actually, I believe that the SAPRO office is better suited, because they have the data for that, to answer the question.

Ms. SPEIER. Right.

Dr. WHITLEY. I think we have the report. There were 2,389 investigations on reports made on this and prior years. We collect data by fiscal year. But certainly, if an assault occurs in September, for example, that case may not be completed by then. But there were 2,763 subjects, 592 were pending disposition, and 136 subjects were civilians or foreign nationals not subject to the UCMJ, so the commander couldn't take action. There were 129 subjects that were unidentified. There were 1,074 subjects that had cases that were unsubstantiated, unfounded, lacked sufficient evidence or involved a victim that recanted or a subject that died. There were 1,339 subjects that were referred by commanders for the following action: there were 317 referred for courts martial, 247 for non-judicial punishment and 268 administrative actions or discharges.

Ms. SPEIER. OK, if I understand this correctly, over half of the cases or just about half the cases were not dealt with? You said 1,074 because of lack of evidence or recanting or the like. So half of those people who had the guts to come forward were dismissed for whatever reason, correct? And then of the remaining, you have 317 that were court martials of that original 2,300 figure, and 247 that had some kind of administrative action taken.

So I am in the service, I know those figures. What is the likelihood of me reporting a second time, when those who had the guts to report end up seeing that half of them are thrown out? Now, I don't know the circumstances when they were or how they were thrown out. But those numbers are chilling. If in fact there are so

many more that go unreported for the very reason that they are concerned about ostracism or retaliation, we have a bigger problem than one might suspect.

Dr. WHITLEY. Well, there is another point. We have six different categories of sexual assault in the UCMJ, from the least egregious, which would be indecent touching, to aggravated assault or rape. So there is a wide variety of sexual assault. It is not just rape. But what you were talking—

Ms. SPEIER. Well, wait a second. With all due respect, unwelcome touching to me is an assault. And I think for most women it would be an assault. To somehow diminish them because there are levels of gravity is not really comforting.

Dr. WHITLEY. The commander does have the discretion to award a punishment he feels fits the crime, if you will. And we do provide synopses in our report which describes each of these cases. And I don't think you will get any of us disagreeing with you and we know we can do better. Just as Ms. Harman said, part of her interest and her relationship with the former Secretary of the Army, we are looking closer at how to train trial counsel. We actually just got the funding to train prosecutors and investigators, so that we can improve the process.

I wanted to comment on something. You used the word chilling. And there is something in the literature called the chilling effect. If you do send a case to court martial and that person gets off, by the time it gets back to the people in the unit or the people in the academy, usually the perception is the victim lied. It has a tremendous effect when that happens.

Ms. SPEIER. So I would suggest a couple things. One is, there has to be a way to video tape a victim and change their voice so that they aren't necessarily specifically identifiable. Two, I think that there should be a zero tolerance policy that is communicated everywhere and then is reflect in what actually takes place. Third, I think there should be some kind of a review of those women who come forward and who make a complaint. There is a court martial, the individual perpetrator is court martialed. What then happens to the victim in their professional career? I would like to see us track them to see, what is their life like afterwards. Because if their life is for all intents and purposes professionally destroyed, that sends us yet another message of why were are not getting people coming forward.

Thank you. I yield back.

Mr. TIERNEY. Thank you very much.

That concludes our questioning of this panel. I just want to take one moment to thank our friends from the Government Accountability Office. You have been steadfast and incredibly helpful on this. I suspect your work isn't done. At some point we may want you to look at this again for us. I just want to thank you for the great work that you have done.

Dr. Iasiello and General Dunbar, thank you for your service to the country generally, but specifically on this Task Force. I understand from your testimony you think you are done now and that completes your responsibilities on this. So I am sure you are on to other things. We appreciate a great deal the work that you did. We understand the magnitude of it, the time and effort that went into

it, and the specificity in your report is incredibly helpful. I really believe that it is going to be looked at and used as a guide to folks going forward. So we thank both of you as well.

And Dr. Whitley and Ms. McGinn, when this whole series of hearings started, we weren't too favorably disposed toward the Department's attitude toward this. That is nothing personal against Dr. Whitley, because I think she had her work impeded. Mr. Dominquez and others I think were horrible, and I think they did things they shouldn't have done. I think their attitude wasn't where it should be on this issue.

I am impressed with both of you, with the sense of responsibility and desire to deal with this. I think we have a way to go, and I think your acknowledgement of that is comforting to us, that you understand exactly what is going on here and that there is work to do. You seem quite willing to do it and to use the good resources that you have at your disposal to get it done.

I think I can speak for the rest of the subcommittee on this: we appreciate that. It has not always been the case. It gives us a feeling that as we go forward, we don't have to have hearing after hearing after hearing to see whether or not the Department of Defense takes it seriously.

So good luck going forward. Thank you everybody for your work. I hope that the men and women in the service are somewhat comforted by the fact that you are on it, you are on the case and you are working on it, and as a group, we will all take this as a joint challenge and move forward. Thank you very much.

At this point in time, I want to thank the witnesses on this panel and we will now receive testimony from our second panel before us, Mr. Merle Wilberding.

Good afternoon, Mr. Wilberding. Thank you very much for being here.

Mr. Merle Wilberding is an attorney with the law firm of Coolidge Wall in Dayton, OH. He represented Mary Lauterbach after the death of her daughter, Lance Corporal Maria Lauterbach. He has previously worked with a number of additional families of victims of military sexual assault. He is also a retired captain in the U.S. Army, where he served in the Judge Advocate General Corps. Mr. Wilberding holds a J.D. from the University of Notre Dame.

I want to thank you for coming here, Mr. Wilberding, making yourself available for us to help us. I ask that you stand and raise your right hand.

[Witness sworn.]

Mr. TIERNEY. Thank you very much.

With that, Mr. Wilberding, you have a statement, I understand. Your full statement will be put on the record, of course. But if you could tell us in 5 minutes generally your points, your high points on that, we would appreciate it.

**STATEMENT OF MERLE F. WILBERDING, ATTORNEY,
COOLIDGE WALL**

Mr. WILBERDING. Thank you. Thank you, Chairman Tierney, Congressman Flake and members of the panel. I appreciate the opportunity to appear before you today. I have submitted a written statement and I will give you a short summary right now.

I am Merle Wilberding. I am an attorney from Dayton, OH. During the Vietnam War I served as a captain the Army Judge Advocate General Corps. Since early January 2008, I have represented Mary Lauterbach, the mother of Marine Lance Corporal Maria Lauterbach, who had filed a claim of sexual assault against fellow Marine Corporal Cesar Laurean, only to be murdered 6 months later and buried in a shallow fire pit in Cesar Laurean's back yard.

At a hearing before this subcommittee on July 31, 2008, Mary Lauterbach became the voice of her daughter as she shared the fears and harassment that Maria had endured after she had filed the sexual assault complaint. This afternoon, I want to talk about the continuing stream of other victims and their families who have reached out to Mary and me.

For me, it started in the cemetery after Maria's funeral. I was approached by three or four women, all of whom told me that they had been victims of sexual assault in the military and all of whom told me that their lives had never recovered. As time continued, the stories from other victims continued. In February, we had a call from a mother whose daughter had filed a sexual assault claim against a fellow soldier. My heart went out to her as she said, "Maria's story could have been my daughter's story. The only difference between my daughter and Maria Lauterbach is that Maria is dead."

In March, we had another call from a mother whose 19 year old daughter had filed a sexual assault claim against a fellow soldier. Instead of receiving protection and programs to help her recover, she was haunted by the ostracism and the disbelief of the fellow members of the unit. Meanwhile, the accused was treated with sympathy and deference as the case moved forward.

In June, we received a phone call from a mother who had watched NBC's Dateline program on Maria Lauterbach's case. Her 20 year old daughter was a Marine who had just made a sexual assault claim. Now she feared for her life. She had a military victim advocate assigned to her, but the victim advocate told her that there wasn't really anything she could do for her.

All of these stories were virtually identical. The complaining victim became isolated and harassed. Their lives were disoriented. The victim became the accused; the accused became the victim. Significantly, all of these victims were no longer effectively contributing to the mission of the military.

I want to focus on victim advocates, or as I often call them, victim listeners. In every discussion I have had with victims and victims' families, the victim advocate was described as a very nice person who expressed her concern and understanding but was not proactive and was not independent, and either could not or was not able to do anything. In Maria Lauterbach's case, her victim advocate was her direct report within the chain of command. Consequently, her victim advocate had to think about her own efficiency reports, her own performance reviews and her own obligations to the command.

I have read the report of the Defense Task Force on Sexual Assault in the Military Services. There are recommendations to improve the victim advocate program, but I do not believe they go far enough. Victim advocates need the ability and the training to be

more proactive. It is at these most critical times that the victim advocate must act. It is important to remember that these victims are often 18 to 21 years old and at this point, very vulnerable, very much alone and very much incapable of making good decisions.

Victim advocates need clear authority to act independent of the command. Congress should consider establishing a line of authority for victim advocates that is outside the base chain of command. Are we making progress? I am at the boots on the ground level. What I see is not progress. I have heard the testimony of the panel before and the difficulties of making progress and of measuring progress. I accept their testimony for what it was. But I do not think we have done enough. We need to do more.

Victims need a better protection system to survive sexual assaults in the military. And the military needs a better victim protection system to protect their own interests in continuing to have a supportive and healthy and active military force.

Thank you, and I am open for any questions you may have.

[The prepared statement of Mr. Wilberding follows:]

Oversight Hearing on Sexual Assault in the Military
before the
Subcommittee on National Security and Foreign Affairs
Part IV
Are We Making Progress?

House Committee on Oversight and Government Reform
United States House of Representatives
Rayburn House Office Building
Room 2247
February 24, 2010

Written Statement
by
Merle F. Wilberding

Chairman Tierney, Congressman Flake, members of the Committee, thank you for the opportunity to appear today to offer testimony on "Sexual Assault in the Military."¹

My name is Merle Wilberding. I am a lawyer with the law firm of Coolidge Wall, Co., L.P.A. in Dayton, Ohio. Since early January of 2008, I have represented Mary Lauterbach,² the mother of Marine LCpl Maria Lauterbach.³

As an accomplished athletic high school senior, Maria Lauterbach had a dream of serving her country with a career in the Marine Corps and then serving her community with a career in law enforcement. Maria loved being in the Marine Corps - - until she filed a claim that she had been raped by a fellow Marine. For the next six months, her life in the Marine Corps became a nightmare. She was met with skepticism, if not outright disbelief, by her superiors and met with harassment and ostracism by her fellow male Marines. She felt isolated; her work suffered; her life seemed out of control. That six-month nightmare ended when she was murdered and buried in a shallow fire pit in the backyard of fellow Marine Cpl. Cesar Laurean.

As the facts and circumstances emerged about the last six months of Maria's life, her case struck a chord throughout the world, as past and current victims of sexual assault identified with the experiences, harassment and lack of support that Maria Lauterbach suffered, as she had reported to her mother.

Beginning on the day Maria's body was discovered on January 11, 2008, there was a continuing stream of victims and families reaching out to Mary Lauterbach and her family for the loss of Maria and the loss of her unborn son, Gabriel Joseph.

Many of these same victims and victims' families sought out Mary Lauterbach and me because they were seeking guidance and counsel for sexual assaults that they or their children had experienced in the military. Some of these contacts related to sexual assaults that had taken place years before, because the effects of the sexual assault continue to haunt them today - - as we saw in the testimony of Ms. Ingrid Torres on July 31, 2008, before this very committee.

Other victims and their families contacted us about sexual assault claims that were pending even as we were having those conversations. While their claims were pending, these victims were undergoing the same threats of discipline because they were not

¹ Neither I nor any entity represented by me in this hearing have received any federal grants (or sub-grants thereof) during the current fiscal year or during either of the two previous fiscal years.

² Mary Lauterbach contacted me because I knew her family and because I had served as a lawyer in the Army's Judge Advocate Corps during the Vietnam War. I have counseled Mary Lauterbach as she worked through the complexities of the military legal system and as she developed her own ideas on helping victims of sexual assault in the military

³ I want to acknowledge the significant contributions of my partner, Christopher R. Conard, throughout our representation of Mary Lauterbach and for his review and comments on this written statement.

believed. They were undergoing the same harassment from their fellow members of the military.

The stories were familiar, in an eerie way. At the "boots on the ground level," no one believed the victim. Instead of being counseled and protected, they were subjected to threats of disciplinary action by their superiors, they were harassed and intimidated by their fellow soldiers or Marines. The victim became the accused, and the accused became the victim.

Each of their stories could have been told by Maria Lauterbach - - Maria Lauterbach could have told each of their stories. Time and time again, the prevailing concern was that each and every victim had a very real fear of the consequences of daring to report a sexual assault. The sad truth is that it was easier for these women not to report the crime.

For me, it started in the cemetery following Maria's funeral. I was approached by three or four women, all of whom told me that they had been victims of sexual assault in the military and all of whom told me that their lives had never recovered. One of these women had with her a Shar-Pei guard dog who always at her side. At night, the Shar-Pei was stationed between her bed and the door because that was the only way this victim could sleep.

As time continued, the stories from victims continued.

In late February we had a call from a mother whose daughter - - a soldier at Ft. Hood, Texas - - had filed a sexual assault claim that she had been raped by a fellow soldier. The most poignant part of our conversations with the mother was when she told me "The only difference between my daughter and Maria Lauterbach is that Maria is dead." Her daughter, too, had been threatened with disciplinary action by her superiors. Her daughter, too, had been harassed and intimidated by her fellow soldiers, and the accused was not removed from the unit.

In March we had another call from a mother whose nineteen-year-old daughter - - also a soldier at Ft. Hood, Texas - - had filed a sexual assault claim that she had been raped by a fellow soldier. Instead of giving protection and programs to help her deal with it, she was treated as the "bad person."

In June, after *NBC Dateline*⁴ aired a program on Maria Lauterbach's case, we received a telephone call from a mother who had watched the program. Her twenty-year-old daughter was a Marine who had just made a claim of sexual assault against a fellow Marine. Now she feared for her life. When she asked for a military protective order, her first sergeant told her that it would be of no value, because, in her view, if her assailant wanted to kill her, the Military Protective Order would not stop him. She was threatened with her own court-martial if her story did not hold up. She was obligated to stay in the same unit with the alleged attacker and was haunted by his presence. She did have a

⁴ The hour-long program was aired on NBC Friday evening, June 6, 2008, at 9:00 pm (E.D.T.).

military victim advocate assigned to her, but, as she reported to me, the victim advocate told her that there was not really anything she could do.

When we talked to the victim, we were immediately struck by how frightened she was. She did not want to ask for any protection, for fear that the intimidation and harassment would be worse. Like Maria Lauterbach, this victim just wanted it to go away. It was clear that she too wished she had not reported the rape.

All of these stories were virtually identical – the complaining victim becomes isolated, taunted, and tormented. In every instance, the victim told me (either directly or through their mother) that the victim was not guided or directed to appropriate support programs, she did not feel protected from her assailant, and she found herself treated as the guilty party, not the victim.

All of these stories reveal young members of the military - - nineteen and twenty years of age - - whose lives have become isolated. Their families are far away, often with little or no money, so their family support system is weakened if not broken. Their ability to work has been compromised and, as a consequence, the military is being compromised in terms of the quality of its work force.

The security and safety of all of these victims, including Maria Lauterbach, was punctured by the hard realities of being a victim of sexual assault in the military. They all reported that the military did not believe them, that they lived in fear of harm from the perpetrator, and that they continue to be in fear of harassment and intimidation from the rest of the unit.

All of these families have spoken out of desperation and fear, desperation because no one could help them and fear that their daughters would be physically harmed or emotionally traumatized. They were also frustrated because they could not provide the help that they knew their children needed. Like Maria, these victims had been threatened with court-martial, administrative reprimands, or in some cases being drummed out of the service.

It is no wonder that victims of sexual assault conclude that the consequences of reporting a rape are far more serious than the consequences of not reporting a rape, as Maria Lauterbach's murder painfully showed the country.

Are we making progress?

I cannot thank this panel enough for its efforts to provide better protection and better programs for victims of sexual assault in the military. I have read the Report of The Defense Task Force on Sexual Assault in the Military Services (December 2009) (the "Task Force Report"). There are a lot of very good points in that report, and there are points that I believe should be implemented in legislation and regulation.

This afternoon I would like to focus on the analysis and discussion in the Task Force Report about Victim Advocates.⁵ The reason I want to focus on Victim Advocates is because all of the victims we met had at the heart of their concern their relationship with their Victim Advocate. My concern is that the Task Force Report does not address the critical issues that I believe are inherent in the Victim Advocate system in the military.

But, first, I would like to acknowledge and endorse the primary recommendations in the Task Force Report for improvements in the Victim Advocate program:

- [1] The Task Force recommends that Congress enact a comprehensive military justice privilege for communications between a Victim Advocate and a victim of sexual assault.
- [2] The Task Force therefore recommends that the Secretary of Defense ensure that members of the Armed Forces who report they were sexually assaulted be afforded the assistance of a nationally certified Victim Advocate.
- [3] [T]he Task Force recommends that the Secretary of Defense ensure that members of the Armed Forces who report they were sexually assaulted be given the opportunity to consult with legal counsel⁶ qualified in accordance with Article 27(b), Uniform Code of Military Justice.

Those recommendations are good but they do not get at what I believe are two critical deficiencies of the Victim Advocates: [1] their inability to be proactive and [2] their lack of independence.

I call them, not Victim Advocates, but Victim Listeners. In every sexual assault claim filed, the assigned Victim Advocate was described as a very nice person who expressed her concern and understanding for the plight of the victim. But they were not proactive and they were not independent.

In Maria Lauterbach's case, her Victim Advocate was her direct report within the chain of command. How could we expect that Victim Advocate to challenge the procedures, seek changes, obtain records, direct the victim into rehabilitative programs. Remember, in Maria Lauterbach's case, her Victim Advocate had to think about her own efficiency

⁵ Task Force Report at pages ES4-ES5, page 28, and pages 67-69.

⁶ The Task Force Report does not give any details on this "legal counsel qualified in accordance with Article 27(b) of the UCMJ. Article 27(b) provides the basic rules for qualification as a lawyer in the Judge Advocate General's Corps, but the Task Force Report gives no recommendation as to how this legal counsel would be able to provide independent advice to the victim. Would legal counsel be under the command's line of authority? Or, would it be under the defense counsel's line of authority? If the latter, it must be remembered that it would be the same office of defense counsel that would be representing the accused in the sexual assault claim.

reports and performance reviews for her obligations to further the interests of the command.

While it is unfair to expect the Victim Advocate to risk her own advancement in the military, it is outrageous to proclaim that the victim is being appropriately protected and rehabilitated by a Victim Advocate who is her direct superior.

Specifically, I believe the military needs more effective victim advocates.

By more effective victim advocates, I believe we need a study of the effectiveness of victim advocates in the military compared to victim advocates in the civilian society.

Based on my conversations with numerous victims and mothers of victims, I believe that

- Too many Victim Advocates are Victim Listeners. I have had victims tell me time and again that their military victim advocates have been very understanding, very nice, but in the final analysis, were unable or unwilling to do anything.
- There should be a study comparing victim advocates in the military to victim advocates in the civilian justice system. We believe that victim advocates in the civilian world are far more pro-active in protecting the victim, sometimes suggesting and other times pushing protective measures or rehab programs.
- Victim advocates need to be more pro-active. It seems that the military victim advocates may list options, perhaps even list good options for the victim, but then put it back on the victim and make the victim decide. It is at these most critical times -- when the victim is most vulnerable -- that the victim advocate must act. It is important to remember that these victims are often eighteen to twenty-one years old and at this point feel very vulnerable, very much alone, and incapable of making good decisions.
- Victim advocates need to be guiding and directing victims along the way
 - All too often victims are young, isolated and traumatized.
 - They need guidance both in handling the investigation and in regaining a sense of control over their work and personal lives.
- Victim Advocates need clear authority to act independent of the command. Congress should consider establishing a line of authority for Victim Advocates that is outside the base chain of command.

There are things that I believe can be done to change how the military treats its sexual assault victims. We need changes that will provide independent Victim Advocates who will pro-actively help future victims of sexual assault, and not put the burden on the

victim to connect the dots, not put the burden on the victim to generate the evidence for the military, and not put the burden on the victim to protect herself.

There are many other victims of crime who have left the military, but who might still be productive, contributing members of the military if they had received adequate support and protection during their times of need.

Thank you for your time and attention.

Merle F. Wilberding

Mr. TIERNEY. Thank you, sir. We appreciate that.

Why don't we start the question with Mr. Turner, who was kind enough to make sure that your testimony was procured for us here today? Mr. Turner.

Mr. TURNER. Thank you Mr. Chairman.

Mr. Chairman, I want to thank you again and also Ranking Member Flake, for allowing Mr. Wilberding to testify. In addition to his work, obviously his perspective is very helpful to us, as he has reviewed the report that we have just received.

I would like to ask, if I could, to enter into the record an op-ed piece that Mr. Wilberding has written, "Sexual Assault in the Military: Looking for a Few Good Changes," that has some of the recommended changes that he just spoke about.

Mr. TIERNEY. Without objection, so ordered.

[The information referred to follows:]



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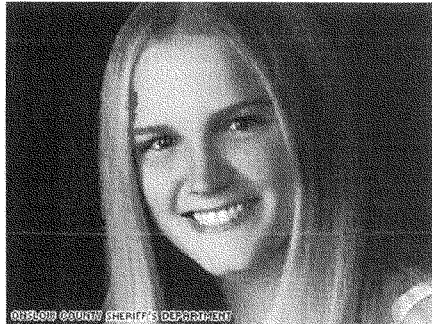
August 4, 2008 at 7:07 a.m.

Sexual assault in the military: Looking for a few good changes

BOOKMARK By [Merle Wilberding](#) 8/4/08 7:07 AM

Merle Wilberding, the attorney for the family of slain Marine Maria Lauterbach, is a native of Breda, Iowa. He now lives in Dayton, Ohio.

More than six months have passed since the charred bodies of Lance Corporal Maria Lauterbach and her unborn child were found buried in a shallow fire pit in the backyard of fellow Marine Corporal Cesar Laurean. Maria had been missing for four weeks from Camp Lejeune, North Carolina, where she was stationed.



Maria Lauterbach

Throughout that period Marine officials had insisted to Maria's increasingly frantic family that the pregnant Marine had probably run away and there was no basis for a formal investigation. Shortly before the bodies were recovered by civilian

authorities, Laurean fled to Mexico. He has since been captured and awaits extradition to North Carolina to face first degree murder charges.

The horrific facts surrounding the murder have overshadowed underlying allegations of sexual assault and the Marines' responses to those allegations. I believe that Maria Lauterbach would be alive today if the Marines had provided a more effective system to protect victims of sexual assault, a more effective support program, and a more expeditious investigation and prosecution system. Six months before her murder, Maria Lauterbach filed a rape claim against Laurean, a superior in her unit at Camp Lejeune. The period while the claim was pending was a nightmare for Maria. She was subjected to intimidation and harassment. She was sucker-punched in the face one evening. Another evening, her brand new car was keyed -- "or rather screw-drivered" - - from bumper to bumper.

Her real concerns were that her superiors and the NCIS investigators did not believe her. Worse yet, she was compelled to be in meetings and formations with her assailant, and she was unsuccessful in getting a base transfer. Finally, she told her mother, Mary Lauterbach, that she just wanted it to go away. She was sorry she had ever reported the rape. Maria's final telephone call to her mother was about an official Christmas party where she feared she might see Laurean.



As a young Army JAG captain, Merle Wilberding was assigned the responsibility to represent the Government in Lt. Calley's appeal of his conviction in the

infamous My Lai massacre. Merle Wilberding briefed and argued the case before the military appellate courts. Those arguments were memorialized in a series of courtroom sketches that appeared in a report by Bob Schieffer on the CBS Evening News on Dec. 4, 1972. After his own discharge, Merle Wilberding acquired one of those original courtroom sketches and is seen standing beside it in the accompanying photograph.

As a family, the Marines have been extraordinary in their outpouring of sympathy and support to Maria's family following the murders. I watched present and former Marines pour out their hearts in person and in their cards and letters. In late February I accompanied the Lauterbach family to a Memorial Service at Camp Lejeune that was simply extraordinary in its compassion and inspirational patriotism.

As an institution, the Marines have failed in their obligations to the Lauterbach family, and, more importantly, and failed in their obligations to women in the military who report sexual assaults. As legal counsel to the Lauterbach family I have had the opportunity to listen to the Marines' public explanations of the rape claim, their efforts to protect her, and their efforts to investigate and prosecute the claim. Their public statements have all been self-serving efforts to insulate themselves from criticism. Not once did they suggest that they have considered whether they could have done things differently in the past or would do things differently in the future. Instead of *mea culpa*, it has been *Maria culpa*.

In the last six months I have been contacted by more than a dozen families and support groups, all seeking specific help for women in the military who have been sexually assaulted. The stories have been virtually identical, the complaining victim becomes isolated, taunted, and tormented. She is not guided or directed to appropriate support programs, she does not feel protected from her assailant, and she finds herself treated as the guilty party, not the victim.

The security and safety of all of these victims, including Maria Lauterbach, was punctured by the hard realities of being a victim of sexual assault in the military. They all report that the military does not believe them, that they live in fear of

harm from the perpetrator, and that they are in fear of harassment and intimidation from the rest of the unit.



Wilberding appeared on the TODAY SHOW with Matt Lauer (center) and Maria Lauterbach's mother, Mary.

After NBC Dateline aired a program on the Maria Lauterbach case, I received a telephone call from a mother who had watched the program. Her 20-year-old daughter was a member of the military and had just made a sexual assault claim. Now she feared for her life. When she asked for a Military Protective Order, her first sergeant told her that it would be of no value, because, in her view, if her assailant wanted to kill her, the MPO would not stop him. She was threatened with her own court-martial if her story did not hold up. She was obligated to stay in the same unit with the alleged attacker and was haunted by his presence. She did have a Military Victim Advocate assigned to her, but the victim advocate told her that there was not really anything she could do.

When I talked to the victim, I was immediately struck by how frightened she was. She did not want to ask for any protection, for fear that the intimidation and harassment would be worse. Like Maria Lauterbach, this victim just wanted it to go away. It was clear that she too wished she had not reported the rape.

All of these families have spoken out of desperation and fear, desperation because no one could help them and fear that their daughters would be physically harmed or emotionally traumatized. Like Maria Lauterbach, these

victims had been threatened with court-martial, administrative reprimands, or in some cases being drummed out of the service. One mother said that the only difference between her daughter and Maria Lauterbach was that her daughter was still alive.

The Marines are not alone in their failures. All of the military services need to address this problem. I don't mean that they should write a manual on Military Protective Orders or prepare a Power Point presentation on the Victim Advocate Program. They already have these materials. They need to transform the Power Point presentations into life-style changes in the everyday treatment of our women in the military who report sexual assaults.

All too often the "Military Victim Advocate" is only a "Military Victim Listener." These military victim advocates need to have the authority and the freedom to guide and direct these victims to enter appropriate support programs, to insist on proper Military Protective Orders, and to stand up for their rights. Often these victims have been traumatized by the sexual assault, and they desperately need guidance and direction to struggle through the inherent emotional trauma that is besetting them.

Victim advocates in the civilian world are far more proactive, far more protective, and far more effective than victim advocates in the military. This can be explained, but not justified, by understanding that military victim advocates are in the military themselves and have to survive within the same chain of command. If they challenge the system too much, they run the risk that their own positions may be in jeopardy.

Some steps have already been taken. In May Congressman Mike Turner (3rd Ohio) successfully added two sections to HR 5658, the DOD Authorization Bill for FY 2009. Both of these sections strengthen military protective orders by adding automatic renewal provisions and by requiring the military to put the civilian authorities on notice of these military protective orders.

More needs to be done. The Marines, indeed all military services, need an outside assessment of this problem for they have shown neither the ability nor

the inclination to evaluate their own failings. Congress needs to hold hearings on sexual assault in the military, especially the victim advocate program. It needs to study how the military victim advocate system compares to the civilian victim advocate system and what changes can be made to provide more effective support. This is critical because the victims live in such a controlled environment. They need help from victim advocates who have the authority to direct and guide them to the appropriate resources and relief.

The goal of these programs should be to help the victims recover from their emotionally wrenching trauma and restore them as productive members of the military workforce. This would literally save the lives of the victims and at the same time would improve and enhance the performance of the military. Our country is committed to an all-volunteer military. To continue to attract women to the military, the military must demonstrate that it can protect them when they have been victims of sexual assault, that it can rehabilitate victims and return them as productive members of the military work force, and that the investigations provide the respect for victims that they already provide for the alleged perpetrators.

*Merle Wilberding, the attorney for the family of slain Marine Maria Lauterbach, is with a Dayton, Ohio, law firm. He is a native of Breda in western Iowa and has long been involved with high-profile military legal cases, most notably the My Lai massacre prosecution during the Vietnam War. As part of his work with the Lauterbach case, a sensational murder investigation, Wilberding has advocated a change in culture in the military to prevent sexual assault on women. **The Iowa Independent** previously profiled Wilberding [here](#).*

Mr. TURNER. I wanted to ask Mr. Wilberding, when you began to represent the Lauterbach family and the facts began to unfold, you had a critical eye and ability to look at where things went wrong, where the military and DOD did things wrong. I greatly appreciated that, because it has been a great assistance to me as we have looked to legislation that might be able to address some of the issues.

But one thing I find really compelling about the story of your experience, since you began working with the Lauterbach family, is that others have come to you. They have come to you with their stories of their experiences. Why do you think people are reaching out so, and have been contacting you to tell you their stories also?

Mr. WILBERDING. It has been an interesting process in the time period now really 2 years from that. And people have called from all over the country. The cases I cited here, they were in military bases throughout the country. And each time, what was consistent to me was that they had nowhere to turn to, their daughters, in every case, could not, did not have any faith and trust in the victim advocate that they were dealing with. They didn't have any faith in the superiors they were dealing with. They were really struggling. And these are, for the most part, hard-working people who didn't have the money to go to faraway places. In every instance, their daughter was a very long distance away from home.

So there wasn't the support system for the daughter from the home that you could have, for example, if a rape occurred in a college atmosphere. But in the military, it is different. I think they were reaching out to us, primarily because one, they wanted to tell their story. I thought they really wanted to get the story out of the struggles, the frustrations they had. And two, I think they were looking for a support group that reassured them that people cared about them. I thought that was what I really felt, was that they were so alone and their daughters were so alone, they were getting no support from anyone in the military. That is what they were reaching out for.

Mr. TURNER. Your recommendation on the victim advocates, taking them from the chain of command, how will that allow them to be more proactive and what would that do to help us in the system?

Mr. WILBERDING. It is an interesting concept, especially in light of the conversation from the panel earlier today. My initial thought had always been that when the Marines issued their statement on January 15, 2008, remember that her body was found on Friday, January 11th, and at 3 o'clock the Marines issued a nine-page opening statement, they called it, that listed everything they had done.

What struck me about it, and by the way, they read it to us, this was in a conference room with Mary Lauterbach, they read it to us literally minutes before they walked in front and read it. So we had no opportunity to see it in advance and were trying to take notes on it.

But what struck me about that nine-page opening statement was, it was a series of statements as to providing some basis for why they didn't do, didn't take things seriously, didn't take certain actions, didn't pursue her. Everything seemed to us that it looked

like they were giving reasons why they didn't do anything, and why their guesses at that were reasonable guesses. What struck me is, there wasn't anything in there, gee whiz, we could have done more, we should have done more.

It came across with not a mea culpa, but a Maria culpa. It really struck me as they were saying, well, nobody gave us all the hard evidence. If you had just told me all that. And they are putting the burden on the accused to connect the dots. There were a lot of red alerts in that.

What struck me about the conference and the panel earlier was that when the question was asked, why wasn't it in the report, and the response was, they talked to the commanders, and I have a good appreciation for that, and a good amount of respect for them, great respect for them. When you talk to the commanders, it is like the same situation to my reaction, it is the same as what I saw here.

It is the same as people in general. When people look at facts, they tend to look at it as reinforcing their own position. When institutions look at facts, they tend to look at the facts reinforcing their own position.

So when the Marines looked at the Lauterbach facts, they looked at it in the sense of, well, we did this, we did that, nobody told us about this, nobody told us about that. And that is what I heard, frankly, in my view, of the commanding generals: do we need an independent one? No, we are doing a good job ourselves.

And I sort of sense that is how the, it is part human nature and part institutional nature. But I think it is something to keep in mind as you evaluate those positions.

Mr. TURNER. Thank you, Mr. Chairman.

Mr. TIERNEY. Where would the line of authority line to best assure that independence?

Mr. WILBERDING. That is a fair question. A reasonable opportunity as to whether or not there is, I recognize the suggestion that it should be a DOD employee, a civilian or a member of the military if it is a military victim advocate. But I think if they talk about it, and I have been out of the Army for a number of years, but the Defense Council and the military have a separate chain of command that the prosecutors don't have. They did that to create some independence in that.

In terms of that, why I think it is important, and Maria's case is a good illustration, is the Marines gave their statement on January 15th, this is what happened, every fact is true and nobody told us differently and we obviously don't have any obligation to pursue it.

But in doing that, they didn't really look at what had happened beforehand. Consequently, things just fell by the wayside. They didn't have an independent victim advocate saying, particularly in that period, it should have been all the time, from May until December, she went missing on December 14th, victim advocate could have been and should have been doing more things.

But from December 14th to January 11th, to me that is where an independent advocate could have been most helpful. What about this evidence? Mary Lauterbach, as the mother, could have been in contact with her, found this, found that, why don't you do more.

Mr. TIERNEY. I get that aspect of it. I think it is a point well made. But to whom would that victim advocate report?

Mr. WILBERDING. I think they would have to create that system within the military.

Mr. TIERNEY. And what about the Task Force recommendation that there be privileged communications between the advocate and the victim? Is that a good idea?

Mr. WILBERDING. I think that is a very good idea. I read the victims' stories in Appendix F and detailed the stories where defense counsel for the accused had essentially taken the depositions, called them to trial, I think that is a very good suggestion.

Mr. TIERNEY. Mr. Flake. Mr. Turner.

Sir, I want to thank you for coming all this way to make your suggestions. I appreciate your letting us put your article in the record. I think these are things that help inform our decisions as we go forward, particularly that one idea that certainly needs and warrants to be explored.

So with our appreciation, thank you.

Mr. WILBERDING. Thank you, Mr. Chairman.

Mr. TIERNEY. With that, the meeting is adjourned.

[Whereupon, at 5:11 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

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February 25, 2010

Gail H. McGinn
Deputy Under Secretary
of Defense for Plans
U.S. Department of Defense
1400 Defense Pentagon
Washington, DC 20301

Dear Ms. McGinn:

During the hearing entitled, "Sexual Assault in the Military Part IV: Are We Making Progress?," held before the Subcommittee on National Security and Foreign Affairs, the Subcommittee requested your response to the following question for the record:

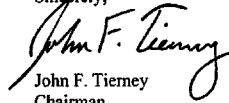
At our hearing entitled "Sexual Assault in the Military Part III: Context and Causes" (July 25, 2009), we heard testimony from Mr. Helen Benedict about the connection between the ban on women in ground combat and sexual assault. Specifically, she testified that the ban sends the signal from the top that women are second class soldiers. This inferiority perpetuates an antagonistic view of women that helps create a culture that is conducive to sexual assault. She recommended that the Department of Defense end the combat ban for women.

Attached is Ms. Benedict's testimony for your reference. You will find the specific mentions of the combat ban on pages four and nine.

What is your response to Ms. Benedict's suggestion that the combat ban contributes to a culture that is conducive to sexual assault? In light of this, do you believe the combat ban should be reexamined?

Please provide your response to this question by March 26, 2010. The Subcommittee appreciates your willingness to respond to this additional question. Please contact Talia Dubovi or Andy Wright at (202) 225-2548 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Tierney". The signature is fluid and cursive, with the first name "John" and last name "Tierney" clearly distinguishable.

John F. Tierney
Chairman
Subcommittee on National Security
and Foreign Affairs

Enclosure

cc: Jeff Flake
Ranking Member
Subcommittee on National Security
and Foreign Affairs

CHARRTS No.: HOG-01-001
 House Government Reform Committee
 Hearing Date: February 24, 2010
 Subject: Sexual Assault in the Military Part IV: Are We Making Progress?
 Congressman: Congressman Tierney
 Witness: Mrs. McGinn
 Question: #1

Question: During the hearing entitled, "Sexual Assault in the Military Part IV: Are We Making Progress?," held before the Subcommittee on National Security and Foreign Affairs, the Subcommittee requested your response to the following question for the record: At our hearing entitled "Sexual Assault in the Military Part III: Context and Causes" (July 25, 2009), we heard testimony from Mrs. Helen Benedict about the connection between the ban on women in ground combat and sexual assault. Specifically, she testified that the ban sends the signal from the top that women are second class soldiers. This inferiority perpetuates an antagonistic view of women that helps create a culture that is conducive to sexual assault. She recommended that the Department of Defense end the combat ban for women. Attached is Ms. Benedict's testimony for your reference. You will find the specific mentions of the combat ban on pages four and nine. What is your response to Ms. Benedict's suggestion that the combat ban contributes to a culture that is conducive to sexual assault? In light of this, do you believe the combat ban should be reexamined?

Answer: While Ms. Benedict may have made this suggestion in good faith, the Direct Ground Combat Definition and Assignment Policy does not ban women from combat. It prohibits the assignment of women to units below the brigade level whose primary mission is to engage in direct combat on the ground. As for its link to sexual assault, I do not believe scientific research can support a claim this policy contributes to a culture conducive to sexual assault. Consequently, I do not believe the Direct Ground Combat Definition and Assignment Policy impacts the success of the Department's sexual assault prevention program.